DEBATES

AND

PROCEEDINGS

OF THE

CONSTITUTIONAL CONVENTION

FOR THE

TERRITORY OF MINNESOTA,

TO FORM A STATE CONSTITUTION PREPARATORY TO ITS ADMISSION INTO THE UNION AS A STATE.

T. F. ANDREWS, Official Reporter to the Convention.

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1858.

THE ENABLING ACT.

AN ACT TO AUTHORIZE THE PEOPLE OF MINNESOTA TO FORM A CONSTITUTION AND STATE GOVERNMENT, PREPARATORY TO THEIR ADMISSION INTO THE UNION ON AN EQUAL FOOTING WITH THE ORIGINAL STATES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: That the inhabitants of that portion of the Territory of Minnesota which is embraced within the following limits, to wit: Beginning at the point in the center of the main channel of the Red River of the North, where the boundary line between the United States and the British Possessions crosses the same; thence up the main channel of said river to that of the Bois des Sioux River; thence up the main channel of said river to Lake Travers; thence up the center of said lake to the southern extremity thereof; thence in a direct line to the head of Big Stone Lake; thence through its center to its outlet; thence by a due south line to the north line of the State of Iowa; thence along the northern boundary of said State to the main channel of the Mississippi River; thence up the main channel of said river, and following the boundary line of the State of Wisconsin, until the same intersects the Saint Louis River; thence down the said river to and through Lake Superior on the boundary line of Wisconsin and Michigan, until it intersects the dividing line between the United States and the British Possessions; thence up Pigeon River, and following said dividing line to the place of beginning, be, and they are hereby, authorized to form for themselves a Constitution and State Government, by the name of the State of Minnesota, and to come into the Union on an equal footing with the original States, according to the Federal Constitution.

SEC. 2. *And be it further enacted*, That the State of Minnesota shall have concurrent jurisdiction on the Mississippi and all other rivers and waters bordering on the said State of Minnesota, so far as the same shall form a common boundary to said State, and any State or States now or hereafter to be formed or bounded by the same; and said river and waters leading into the same, shall be common highways, and forever free, as well to the inhabitants of said State as to all other citizens of the United States, without any tax, duty, impost or toll therefor.

SEC. 3. *And be it further enacted*, That on the first Monday in June next, the legal voters in each Representative District, then existing within the limits of the proposed State, are hereby authorized to elect two Delegates for each Representative to which said District may be entitled according to the apportionment for Representatives to the Territorial Legislature, which election for Delegates shall be held and conducted, and the returns made, in all respects in conformity with the laws of said Territory regulating the election of Representatives; and the Delegates so elected shall assemble at the Capitol of said Territory, on the second Monday in July next, and first determine, by a vote, whether it is the wish of the people of the proposed State to be admitted into the Union at that time; and if so, shall proceed to form a Constitution, and take all necessary steps for the establishment of a State Government, in conformity with the Federal Constitution, subject to the approval and ratification of the people of the proposed State.

SEC. 4. *And be it further enacted*, That in the event said Convention shall decide in favor of the immediate admission of the pro-

posed State into the Union, it shall be the duty of the United States Marshal for said Territory to proceed to take a census or enumeration of the inhabitants within the limits of the proposed State, under such rules and regulations as shall be prescribed by the Secretary of the Interior, with the view of ascertaining the number of Representatives to which said State may be entitled in the Congress of the United States; and said State shall be entitled to one Representative and such additional Representatives as the population of the State shall, according to the census, show it would be entitled to according to the present ratio of representation.

SEC. 5. *And be it further enacted*, That the following propositions be, and the same are hereby, offered to the said Convention of the people of Minnesota for their free acceptance or rejection, which, if accepted by the Convention, shall be obligatory on the United States and upon the said State of Minnesota, to wit:

First, That sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said sections, or any part thereof, has been sold or otherwise been disposed of, other lands, equivalent thereto and as contiguous as may be, shall be granted to said State for the use of schools.

Second, That twenty-two sections of land shall be set apart and reserved for the use and support of a State University, to be selected by the Governor of said State, subject to the approval of the Commissioner at the General Land Office, and to be appropriated and applied in such manner as the Legislature of said State may prescribe for the purpose aforesaid, but for no other purpose.

Third, That ten entire sections of land, to be selected by the Governor of said State, in legal subdivisions, shall be granted to said State for the purpose of completing the public buildings, or for the erection of others at the seat of Government, under the direction of the Legislature thereof.

Fourth, That all salt springs within said State, not exceeding twelve in number, with six sections of land adjoining, or as contiguous as may be to each, shall be granted to said State for its use; the same to be selected by the Governor thereof, within one year after the admission of said State, and when so selected, to be used or disposed of on such terms, conditions and regulations as the Legislature shall direct: *Provided*, That no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individuals, shall, by this article, be granted to said State.

Fifth, That five per centum of the net proceeds of sales of all public lands lying within said State, which shall be sold by Congress after the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to said State for the purpose of making public roads and internal improvements, as the Legislature shall direct; *Provided*, the foregoing propositions herein offered are on the condition that the said Convention which shall form the Constitution of said State shall provide by a clause in said Constitution, or an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same, by the United States, or with any regulations Congress may find necessary for securing the title in said soil to *bona fide* purchasers thereof; and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents.

TERRITORIAL ACT.

AN ACT TO PROVIDE FOR THE PAYMENT OF THE EXPENSES OF THE CONVENTION TO FORM A CONSTITUTION FOR THE STATE OF MINNESOTA, IN ACCORDANCE WITH AN ACT OF CONGRESS, APPROVED MARCH 3, 1857.

Be it enacted by the Legislative Assembly of the Territory of Minnesota:

SECTION 1. That on the first Monday of June next, the qualified electors of the Territory of Minnesota, shall assemble at their respective places appointed by law for the opening of the polls, and shall there proceed to elect by ballot, certain Delegates for a Convention to form a Constitution and State Government for this Territory.

SEC. 2. Every Council District in this Territory shall elect two Delegates for every Councillor it may be entitled to in the Legislative Council, and every Representative District shall elect two Delegates for every member they may be entitled to in the House of Representatives; *Provided*, That whenever any District has been sub-divided in order to elect their Representative in the Legislative Assembly, the same sub-divison shall govern in the election of Delegates to the Constitutional Convention.

SEC. 3. That there be appropriated, out of any money in the Territorial Treasury, unappropriated, for mileage and per diem of members, officers, and secretaries, and for stationery, the sum of thirty thousand dollars.

SEC. 4. That the members, officers, and secretaries of said Convention shall be entitled to the same mileage and per diem as members of the Legislative Assembly; *Provided*, That the presiding officer shall be entitled to three dollars per day extra.

SEC. 5. The compensation herein provided for the members, officers, and secretaries, shall be certified by the presiding officer, and attested by the Secretary, as well as all claims for stationary, printing, and all other incidental expenses, which said certificates, when so certified, shall be sufficient evidence to the Territorial Treasurer of each persons claim.

SEC. 6. The qualifications of Delegates to the Constitutional Convention shall be the same as the qualifications for members of the House of Representatives or the Legislative Assembly.

SEC. 7. This Act shall be in force from and after its passage.

APPROVED May twenty-third, one thousand eight hundred and fifty-seven.

LIST OF MEMBERS OF THE CONSTITUTIONAL CONVENTION,

WITH THEIR AGE, OCCUPATION, CONDITION, PLACE OF NATIVITY, POST OFFICE ADDRESS, COUNTY, COUNCIL DISTRICT, &c.

Names of Delegates.	Age.	Occupation.	Married or Single.	Place of Nativity.	Post Office Address.	County.	Council District	Boarding House.
Benj. C. Baldwin	35	Surveyor and Conveyancer	Single	New York	Lake City	Wabashaw	9	Winslow.
D. M. Hall	42	Lumberman	Married	Maine	St. Anthony	Hennepin	3	Winslow.
Robert Lyle	49	Farmer	Married	Ohio	Orville, Iowa	Mower	8	Stanche's.
G. A. Kemp	25	Conveyancer	Married	England	Reed's Landing	Wabashaw	9	Winslow.
William F. Russell	27	Printer	Single	Pennsylvania	Island City	Hennepin	11	Winslow.
N. B. Robbins, Jr	28	Editor	Single	Massachusetts	Rochester	Olmsted	9	Winslow.
Simeon Harding	44	Farmer	Married	Vermont	St. Charles	Olmsted	3	Winslow.
W. H. C. Folsom	40	Merchant	Married	Maine	Taylor's Falls	Chisago	1	S. P. Folsom's.
Wentworth Hayden	43	Clergyman and Farmer	Married	Maine	Anoka	Hennepin	11	Delleng's.
D. L. King	40	Farmer and Minister	Married	Pennsylvania	Kasmar	Olmsted	9	Wilson's.
T. D. Smith	38	Merchant	Widower	Vermont	Chaska	Carver	11	Central.
Edwin Page Davis	25	Attorney at Law	Single	New York	Traverse des Sioux	Nicollet	10	Winslow.
Thomas Wilson	30	Attorney at Law	Single	Ireland	Winona	Winona	9	Winslow.
E. N. Bates	29	Lumber Merchant	Married	Massachusetts	Minneapolis	Hennepin	11	Winslow.
John H. Murphy	31	Physician	Married	New Jersey	St. Anthony	Hennepin	3	Fuller.
Thos. Bailes	43	Miller	Married	New York	Cannon City	Rice	6	Back Ameri'n.
D. D. Dickerson	33	Farmer	Married	New York	Shakopee	Scott	6	Merchants'.
Thomas Foster	39	Miller	Married	Pennsylvania	Hastings	Dakota	6	Fuller.
Lewis M'Kune	36	Farmer	Married	Pennsylvania	Morristown	Waseca	10	Winslow.
W. J. Duley	34	Merchant	Married	Indiana	Beaver	Winona	9	Winslow.
R. L. Barthelomew	50	Farmer	Married	Ohio	Minneapolis	Hennepin	11	Delleng's.
N. P. Colburn	31	Lawyer	Married	New Hampshire	Waukokee	Fillmore	8	Winslow.
H. A. Billings	..	Attorney at Law	Married	Vermont	Spring Valley	Fillmore	8	Winslow.
Aaron G. Hudson	35	Merchant	Married	New York	Florence	Goodhue	4	Fuller.
Charles Gerrish	35	Farmer	Married	New Hampshire	Saratoga	Winona	9	Winslow.
Frank Mantor	30	Merchant	Married	New York	Mantorville	Dodge	4	Fuller.
Amos Cogeswell	32	Lawyer and Farmer	Married	New Hampshire	Aurora	Steele	10	Merchants.
Chas McClure	53	Attorney at Law	Married	Virginia	Red Wing	Goodhue	4	Fuller.
Boyd Phelps	52	Farmer	Married	North Carolina	Elkhorn	Mower	8	Denizen.
Joseph Peckham	41	Conveyancer	Married	Massachusetts	Cannon Falls	Goodhue	4	Winslow.
George Watson	36	Physician	Married	Ohio	Sumner	Freeborn	4	Winslow.
Charles F. Lowe	38	Farmer	Single	New Hampshire	Sunrise City	Chisago	1	Fuller.
P. A. Cederstam	27	Clergyman	Married	Sweeden	Taylor's Falls	Chisago	1	Mrs Brewer's.
Chas. B. Sheldon	35	Clergyman	Married	Massachusetts	Excelsior	Hennepin	11	Ray's.
David Morgan	42	Lawyer	Married	New Hampshire	Minneapolis	Hennepin	11	Winslow.
James A. McCann	30	School Teacher	Married	Virginia	Caledonia	Houston	8	Winslow.
John A. Anderson	40	Merchant	Widower	Ohio	La Crescent	Houston	8	Winslow.
A. H Butler	40	Farmer	Married	Pennsylvania	Bellville	Fillmore	8	Winslow.
Charles Hanson	23	Farmer	Single	New Hampshire	Etna	Fillmore	8	Winslow.

Charles A. Coe	31	Farmer	Married	New York	Brownsville	Houston	8	Winslow.
David A. Secombe	30	Lawyer	Married	New Hampshire	St. Anthony	Hennepin	8	Winslow.
John Cleghorn	34	Merchant	Married	Scotland	Elliot	Fillmore	8	Winslow.
Alanson B. Vaughn	51	Farmer	Married	New York	Lansing	Mower	8	Winslow.
Henry Eschlie	27	Farmer	Married	Germany	Chaska	Carver	11	F Haynes.
Cyrus Aldrich	47	Land Business	Married	Rhode Island	Minneapolis	Hennepin	11	Winslow.
F. Ayer	54	Farmer	Married	Massachusetts	Belle Prairie	Morrison	5	Miss Kent's.
Albert W. Coombs	41	Daguerreotypist	Married	Maine	Hassan	Hennepin	11	Winslow.
Thos. J. Galbraith	30	Lawyer	Married	Pennsylvania	Shakopee	Scott	6	Winslow.
H. W. Holley	29	Editor	Married	New York	Chatfield	Fillmore	8	Winslow.
B. E. Messer	45	Farmer and Musician	Married	New Hampshire	Hutchinson	McLeod	11	Winslow.
W. H. Mills	25	Surveyor	Single	New Hampshire	Pleasant Grove	Olmsted	9	Merchants'.
John W. North	42	Attorney	Married	New York	Northfield	Rice	6	Fuller.
Oscar F. Perkins	27	Lawyer	Married	Vermont	Faribault	Rice	6	Winslow.
Samuel W. Putnam	34	Real Estate Desler	Married	New Hampshire	St. Anthony	Hennepin	3	Winslow.
L. K Stannard	30	Lawyer	Single	Vermont	Taylor's Falls	Chisago	1	Fuller.
C. W. Thompson	32	Miller	Single	Canada	Hokah	Houston	8	Winslow.
L. C. Walker	34	Real Estate Dealer	Married	Vermont	St. Anthony	Hennepin	3	Winslow.
Philip Winell	34	Mechanic	Married	Prussia	St. Anthony	Hennepin	8	Winslow.

LIST OF OFFICERS OF THE CONVENTION.

Names of Officers.	Ages.	Occupation.	Married or Single.	Places of Nativity.	Post Office Address.	County.	Council District	Boarding House.
St. A. D. Balcombe, *President*	28	Farmer	Married	New York	Winona	Winona	9	Winslow.
E. D. Neill, *Chaplain*	33	Clergyman	Married	Pennsylvania	St. Paul	Ramsey	2	At Home.
L. A. Babcock, *Secretary*	37	Lawyer	Married	Vermont	St. Paul	Ramsey	2	At Home.
John Q. A. Ward, *Assistant Secretary*	30	Printer	Married	Ohio	St. Paul	Ramsey	2	At Home.
William Foster, *Sergeant-at-Arms*	37	Carpenter	Married	Pennsylvania	Hastings	Dakota	6	Fuller.
Wm. H. Shelley, *Messenger*	28	Contractor and Builder	Married	New York	St. Paul	Ramsey	2	At Home.
Gbstavus Lone, *Fireman*	28	Architect	Married	Germany	St. Paul	Ramsey	2	At Home.

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THE CONVENTION.

HALL OF THE HOUSE OF REPRESENTATIVES,
SAINT PAUL, MONDAY, *July* 13, 1857.

THE Delegates elected to form a Constitution and State Government for the Territory of Minnesota, this day assembled in the Hall of the House of the Representatives at the Capitol.

TEMPORARY ORGANIZATION.

At fifteen minutes before twelve o'clock, Mr. J. W. NORTH called the Convention to order, and nominated THOS. J. GALBRAITH as President *pro tempore.*

Mr. NORTH put the question to the Delegates, and declared it carried.

Mr. GALBRAITH thereupon took the chair. [At this stage of proceedings a portion of the delegates left the Convention.]

The PRESIDENT *pro tem.* having called the Convention to order,

Mr. FOSTER nominated the following temporary officers, who were, without division, declared elected:

L. A. BABCOCK, Secretary;

J. Q. A. WARD, Assistant Secretary;

WM. FOSTER, Sergeant-at-Arms;

B. L. SELLORS, Messenger;

GUSTAV LEUE, Fireman.

Mr. NORTH said he would state for the information of those who might not have been aware of the fact, that he nominated Mr. GALBRAITH as President *pro tem.* at the written request of a majority of the members of the entire Convention.

CREDENTIALS.

On motion of Mr. ALDRICH, the President *pro tem.* was authorized to appoint a committee of five members to collect and report upon the credentials of the delegates present.

The PRESIDENT *pro tem.*, (from a printed list of all the delegates elect,) appointed as such committee, Messrs. NORTH, ALDRICH, SHERBURNE, VAUGHN and BAASEN.

The Committee having performed the duty assigned them, reported the following delegates as having presented regular credentials:

First District—P. A. CEDERSTAM, W. H. C. FOLSOM, L. K. STANNARD, CHAS. F. LOWE;

Third District—S. W. PUTNAM, D. M. HALL, D. A. SECOMBE, P. WINELL, L. C. WALKER, J. H. MURPHY;

Fourth District—CHARLES MCCLURE, AARON G. HUDSON, GEO. WATSON, FRANK MANTOR, JOSEPH PECKHAM;

Fifth District—FREDERICK AYER;

Sixth District—JOHN W. NORTH, THOMAS BOLLES, OSCAR F. PERKINS, THOS. FOSTER, THOS. J. GALBRAITH, D. D. DICKINSON;

Eighth District—ALANSON B. VADGHN, C. W. THOMPSON, JOHN A. ANDERSON, CHAS. A. COE, N. B. COLBURN, JOS. A. MCCANN, H. A. BILLINGS, CHARLES HANSON, H. W. HOLLY, JOHN CLEGHORN, A. H. BUTLER, ROBERT LYLE;

Ninth District—ST. A. D. BALCOMBE, CHARLES GERRISH, SIMEON HARDING, NATHAN B. ROBBINS, WM. J. DULY, SAM. A. KEMP, THOMAS WILSON, DAVID L. KING, BENJAMIN C. BALDWIN;

Tenth District—AMOS COGGSWELL, LEWIS MCKUNE, EDWIN PAGE DAVIS;

Eleventh District—CYRUS ALDRICH, WENTWORTH HAYDEN, R. L. BARTHOLOMEW, W. F. RUSSELL, HENRY ESCHLIE, DAVID MORGAN, E. N. BATES, ALBERT W. COOMBS, T. D. SMITH, and B. E. MESSER.

On motion of Mr. FOSTER, editors and reporters of newspapers were invited to seats within the bar.

On motion of Mr. THOMPSON, the report of the committee on Credentials was accepted.

Mr. SECOMBE moved that the credentials

presented be entered at large on the journal. He wished that from the very commencement it should become apparent upon what basis we are proceeding.

Mr. FOSTER approved of the motion. The Convention had no archives in which its papers are to be deposited. The journal was the only record of the Convention, and he hoped these credentials would be spread upon that record.

The motion was agreed to.

MEMBERS QUALIFIED.

On motion of Mr. NORTH, Maj. FURBER, a justice of the peace, administered to the delegates present, the usual oath to support the Constitution of the United States.

The PRESIDENT *pro tem.* then announced that fifty-six delegates, a majority of the authorized number of members of the body, being present and in their seats, the Convention was open for the transaction of any business which might come before it.

PERMANENT ORGANIZATION.

On motion of Mr. NORTH, the Convention proceeded *viva voce* to elect a permanent President, when it appeared that ST. A. D. BALCOMBE received fifty-five votes and Mr. ALDRICH one.

On motion of Mr. NORTH, Messrs. FOSTER and THOMPSON conducted the President elect to the chair.

The PRESIDENT then addressed the Convention as follows:

GENTLEMEN OF THE CONVENTION: I return to you my sincere thanks for this mark of your kind consideration in electing me as your presiding officer. I assume the duties of this position with a knowledge of the fact that there are many members of this Convention now before me, who are much better qualified to perform its duties than myself. But I ask it as a favor of each and every member, to aid me so far as it is possible so to do, in the performance of the responsible duties to which you have assigned me. I shall endeavor to discharge them to the best of my ability; and if I fail, it will be simply because I have not the ability, and not because I have not the ambition and disposition to perform the duties assigned me in a creditable manner. I again return my sincere thanks for your consideration, and for the honor you have conferred upon me. [Applause.]

On motion of Mr. STANNARD, the Convention proceeded *viva voce* to the election of a permanent Secretary.

The roll was called and L. A. BABCOCK, of St. Paul, having received all the votes cast, (fifty-six) was declared to be duly elected.

On motion of Mr. WILSON, the Convention proceeded *viva voce* to the election of permanent Assistant Secretary.

The roll was then called, and J. Q. A. WARD, of St. Paul, having received all the votes cast, (fifty-six) was declared to be duly elected.

On motion of Mr. FOSTER, the Convention proceeded to the election of Sergeant-at-Arms.

The roll being called, there were fifty-five votes cast, of which WM. FOSTER, of Dakota County, received fifty-four, and B. L. SELLORS one. Whereupon, WM. FOSTER was declared duly elected.

On motion of Mr. THOMPSON, the Convention proceeded to the election of a permament Messenger. The vote being taken, B. L. SELLORS, of Fillmore County, was unanimously elected.

On motion of Mr. FOSTER, the Convention elected GUSTAV LEUE, of Ramsey County, as Fireman of the Convention.

On motion of Mr. GALBRAITH, the Convention proceeded to the election of Chaplain.

Mr. GALBRAITH nominated the Rev E. D. NEILL, of St. Paul, and said: I desire simply to remark, that Mr. NEILL is one of the pioneers of this country, and has identified himself with its original history. He came here at an early day, one of the first permanent ministers of the gospel among the whites in the Territory.

Mr. FOSTER. Having had a long acquaintance with Mr. NEILL, I can, with Mr. GALBRAITH, endorse his qualifications. He has been the historian of the territory, and has contributed much to giving it position at home and abroad. As a historical man, we shall do ourselves credit in electing him—as we may be called a historical convention, being the first to lay the foundations of a state—and at the same time we shall pay a deserved compliment to him.

Mr. NORTH further testified to the high character of the nominee, after which the vote

being taken, Mr. NEILL was unanimously elected.

On motion of Mr. WILSON, such officers of the Convention as were present, were duly qualified by taking the oath of office, administered by Maj. P. P. FURBER, Justice of the Peace.

RULES OF PROCEEDINGS.

Mr. GALBRAITH moved that a committee of three be appointed by the chair to complete and report a code of rules for the government of the Convention. The motion was agreed to.

The PRESIDENT appointed Messrs. GALBRAITH, WILSON and MCKUNE as such committee.

On motion of Mr. ALDRICH, the rules of the last House of Representatives of the Territorial Legislature were adopted as the rules of the Convention, as far as they were applicable, until the select committee on Rules should report, and their report be accepted.

On motion of Mr. WATSON, Messrs. MCCLURE and ALDRICH were appointed a committee to wait upon the Chaplain elect, and inform him of his election.

The organization of the Convention being completed, the Rev. Mr. SHELDON opened the Convention with prayer, in the absence of the Chaplain elect.

WISH OF THE PEOPLE TO BE ADMITTED AS A STATE.

Mr. GALBRAITH (by unanimous consent) read the Enabling Act of Congress, and then offered the following resolution:

"*Resolved*, That in the opinion of this Convention, it is the wish of the people of the proposed State of Minnesota, to be admitted into the Union at this time, in accordance with the act of Congress entitled 'an act to authorize the people of the Territory of Minnesota to form a constitution and state government, preparatory to their admission into the Union on an equal footing' with the original states. Approved, March —, 1857."

Mr. STANNARD. I offer the following substitute:

"*Resolved*, By the delegates elected in pursuance of the provisions of the act of Congress, approved March —, entitled, 'an act to authorise the people of the Territory of Minnesota to form a constitution and state government preparatory to their admission into the Union on an equal footing with the original states,' in Convention now assembled, to form such constitution, in accordance with said act, that it is the wish of the inhabitants residing within the limits described in said act, to be admitted in the Union as a State in pursuance of said act."

Mr. GALBRAITH. I will accept the substitute.

Mr. COGGSWELL. If I understand the language of that resolution, and the language of the Enabling Act, they do not correspond in some very essential features. The Enabling Act provides that when the delegates elected shall assemble at the Capitol, they shall "first "determine by a vote whether it is the wish "of the people of the proposed State"—the "people," not "the inhabitants"—"to be "admitted into the Union at this time." I understand that there is a material difference between that language, and the language of the resolution, and I am in favor of having the language of the Enabling Act incorporated, *verbatim et literatim*, into that resolution as far as it can be done.

Mr. STANNARD. The words of my resolution are taken from the first part of the first section of the Enabling Act, and from the second section, in which the term "people" is used, which I consider synonomous with "inhabitants."

Mr. COGGSWELL. Very true; but I make a distinction between the acts of the inhabitants of the Territory of Minnesota as laid down and defined in the first section, and the actions and conduct of the delegates when assembled at the Capitol for the purpose of determining whether it is the wish of the people to come into the Union upon an equal footing with the original States. I am compelled to vote against the resolution until it is so framed as to include in it the words of the Enabling Act, which specifies what shall be done by the Convention when assembled, so that there may be no doubt of its meaning, and no advantage taken in any way, shape or manner.

Mr. THOMPSON. I move that the resolution be referred to a select committee of three, with instructions to report to-morrow a resolution in proper form.

Mr. STANNARD. I hope the motion will not prevail. I think there is every evidence of a long day's session, and I dislike very much to sit here without having something to do. It seems that this is the key-stone of our action, and we have to decide upon this before we can advance another step.

Mr. ALDRICH. I move to amend the motion by striking out "select committee of

three," and substituting "a committee of the Whole."

Mr. STANNARD. Would not the resolution then be just where it is now?

Mr. FOSTER. When we are in committee of the Whole, amendments of all kinds and shapes may be adopted, rejected or changed about to suit the wishes of this body; the proceedings are not recorded upon the journals, or only so much of them as the House afterwards adopts; greater latitude of debate is allowed, and an opportunity is afforded to the President of the Convention to participate in the discussion. For these reasons, I hope it will be sent to a committee of the Whole.

Mr. HAYDEN. It seems to me that it would expedite business to refer the resolution to a select committee, which, I presume, would report back such a resolution as would satisfy the Convention.

Mr. COGGSWELL. As a member of this Convention I desire that, in taking a step of this importance, we should act carefully, cautiously, prudently and correctly. Our actions will be criticised, and so far as I am concerned, I am in favor of placing them in such a shape that there shall be very little chance for criticism or doubt. I can already see a cloud lowering over us—and my apprehensions are not, in my judgment, unfounded—and it becomes us, as members of the Convention, to look well to every step we take. If I understand correctly the language of the Enabling Act, and the proper construction which is to be placed upon it, the resolution which is adopted by the Convention should incorporate substantially the language used in that Act; and if the pending resolution shall be sent to the committee of the Whole, I shall offer an amendment which will accomplish that end.

Mr. KING. I second the motion for the reference of these resolutions, and I hope they will lie over until to-morrow to give the members of the Convention time to reflect upon them, and make up their minds. I conceive this to be the most expeditious, and certainly the safest mode of proceeding. A great many of us are uninitiated in these proceedings, and the noise and confusion has been so great that all have not been able to understand all that has been said. I hope, therefore, the resolutions will lie over until to-morrow to give us an opportunity of examining them at our lodgings, and of consulting with each other relative to them. We shall then be able to act understandingly.

Mr. ALDRICH. I dislike very much to obtrude myself upon the Convention, but I wish to state to those who may not be familiar with the rules, my understanding of this matter. If this resolution and substitute are referred to a committee of the Whole, it will be in the power of that committee to report them back at any time. If I understand the rules, they will come before the Convention again just as easily from a committee of the Whole as from a committee of three members. The object of referring to a committee of the Whole is to give us all an opportunity for examination and discussion among ourselves. Every member who desires will have the opportunity of speaking upon them, and I do not know why we may not arrive at correct conclusions by this course as well as by any other. I shall have no objection to adjourning, and allowing the matter to go over until to-morrow, if we could adjourn with any safety; but as we are obliged to remain here, let us examine the matter coolly, quietly and calmly, and see if we cannot come to a correct understanding of it.

Mr. FOSTER. I agree with gentlemen that we should correct the phraseology of the resolution so as to make it conform exactly to the provisions of the Enabling Act; and although we might refer the matter to a committee, who could retire and report forthwith, still, I see no reason why the resolution cannot as well be perfected in committee of the Whole, where there is perfect freedom in offering and discussing amendments. When we have agreed upon the phraseology of the amendment, we can report it back to the Convention, and adopt it. I hope the vote will be taken without further delay, for, as near as I can get at it, we can do no business until we have disposed of this; but when we have disposed of this, we are then *rectus in curia*, ready to proceed with the business of the Convention. This is an important crisis! and we must move carefully, cautiously, and at the same time decisively. Sending this matter to committee of the Whole, where we can hear and offer amendments, seems the course best calculated to accomplish our ob-

ject. We can then go into Convention, and take decisive action upon it.

Mr. McCLURE. I think we can reach this matter without going into committee of the Whole at all. It seems to me we can dispose of it just as well in Convention as in committee, because we are just the same body with a different head, and I do not see what we should effect by it. If the gentleman over the way [Mr. COGGSWELL] will offer the amendment which he has prepared, we can consider it just as well here as in committee. If it should meet the views of gentlemen here, those who have offered propositions before may be induced to withdraw them, add we can adopt his resolution, and thus arrive at the result we desire by a shorter method than going into committee of the Whole.

Mr. HUDSON. I do not consider myself as posted in respect to the difference between acting upon this subject in committee of the Whole and in Convention, but I am decidedly in favor of taking that course which will be most likely to bring about the right result, after a careful investigation of the whole matter. We are here to frame a Constitution for the incoming State of Minnesota; and not only are the eyes of Minnesota resting upon us, but of the whole United States. We act not for the present generation alone, but for coming generations. The Constitution we shall present to the people of Minnesota, we shall present because we do not know enough to make a better one; and in all our actions we ought to move cautiously. If I could see any efficacy in going into committee of the Whole—if as the gentleman [Mr. FOSTER] has said, it can be discussed there more freely—I should be in favor of discussing it there; but I should like to be enlightened as to the mode in which it is to be accomplished.

The PRESIDENT stated that in committee of the Whole members could speak as often as they saw fit to the same question; while, under the rules, no member, in Convention, could speak but twice to the same question. Another difference was that the amendments offered in committee of the Whole were not required to be entered on the journal.

Mr. GALBRAITH. This resolution is in fact the starting point. Until we act upon this matter nothing can be done. For my part, I do not intend to discuss it here, and am decidedly in favor of referring it to a committee of the Whole at once, for reasons and good reasons, already stated. It can there be debated and amended, if necessary, without encumbering the journals. The utmost latitude of debate should be allowed, and there is not that freedom of debate here which there is in committee. But it is our business to make short work of this Convention. Our work must be done and well done; but we can practically do nothing until a resolution of this character has been passed.

The question was taken, and the motion to refer the resolution to a committee of the Whole was agreed to—ayes 24, noes 18.

Mr. NORTH moved that the Convention resolve itself into committee of the Whole for the purpose of taking up the resolution just referred there.

The motion was agreed to. The Convention accordingly resolved itself into committee of the Whole, (Mr. NORTH in the Chair), and proceeded to the consideration of the resolutions relative to the wish of the people to form a State government.

Mr. COGGSWELL offered the following substitute for the original resolution:

"*Resolved*, That it is the wish of the people of the proposed State of Minnesota, at this time, to be admitted into the Union upon an equal footing with the original States."

Mr. C. said. If this were the only body to decide upon the correctness and legality of our conduct and proceedings, I apprehend there would be but little difficulty in arriving at the object intended by the original resolution; but our conduct and proceedings are all to undergo the inspection of Congress; and sir, in laying down, as we are now doing, the foundation of our future action, I am in favor of laying it down safely and securely; I am in favor of laying it down in such a manner that neither Congress, nor any other body, can misconstrue our intentions, our objects or our acts. I am satisfied that if there were no diversity of opinion with regard to our organization, any resolution which has been offered to accomplish the object we have in view would be pronounced sufficient; but, sir, I think I can see in the distance an effort being made to distort every act of ours in such manner as will give some little show for

saying that our proceedings are irregular, illegal, not warranted by the Enabling Act. I have always found it the best plan, in drawing up papers founded upon a statute, to follow the precise language of that statute as far as possible. When the language of the statute is adopted, there can be but little doubt as to the construction that must be given. Now, gentlemen might suppose that there could be but little doubt as to the construction that must be given to the resolution as originally drawn; but, sir, there are certain men who will resort to certain tricks to carry out a certain purpose, and I have always found it the better policy to be prepared against every emergency, and to provide against any possible misconstruction. I have, in the substitute I have proposed, followed the exact language of the Enabling Act. Let us see:

Section third of the Enabling Act provides that the Convention shall assemble at the Capitol, on the second Monday in July. That we have done—and shall determine by vote, what? "whether it is the wish of the people" —that is English language—"whether it is "the wish of the people of the proposed State "to be admitted into the Union at this time." That is the language of the Enabling Act, and I think it will be well to incorporate that language into this resolution in such manner that there can be no doubt left as to its construction or its legal effect.

The section goes on to provide that the Convention shall then proceed to form a Constitution and State government. When we have adopted the resolution required in the Enabling Act, we have the authority to go on and form a Constitution, but not until we have adopted it. I prefer the adoption of the substitute, so that there shall be no doubt about the legality of our future proceedings.

Mr. STANNARD. I think the amendment of the gentleman is too ambiguous. It has no reference to the boundaries of the proposed State. It makes no reference to the Enabling Act. Now, sir, the substitute which I proposed refers directly to the Act of Congress under which we are here. It specifies the inhabitants residing within the limits of the proposed State, referred to in the Enabling Act. If there is any surplusage in it, I am willing to have it struck off. I want nothing but what is right, but I think the amendment last offered is entirely too ambiguous.

Mr. ROBBINS. I was glad when the Convention decided to bring this question referred to, up in committee of the Whole, for two reasons: One was that the resolution, as it then stood, was, in my judgment, imperfect; and the other was that it was too comprehensive. The first resolution was brought before us in a hasty manner, and we were told that time was wanting, that we must get through with what we have to do and go home. Well, sir, I for one am opposed to crowding everything into one resolution. I wish to have questions in themselves separate, decided separately. When we are to determine whether the people of Minnesota desire to come into the Union upon an equal footing with the original States, let us vote upon that question alone, and not couple with it another proposition to determine the boundary of the proposed State. Let us vote for the first proposition, upon which there is no difference of opinion, and not couple with it another, upon which there is a difference of opinion, and in which my constituents feel a deep interest. I hope the question will be taken simply upon the proposition whether the people of Minnesota desire to come into the Union as a State.

Mr. GALBRAITH. This is a question of some importance. It is one upon which great difference of opinion has heretofore been expressed in the Territory of Minnesota, and I wish simply to express my opinion upon it. The resolution of the gentleman over the way [Mr. STANNARD], in my opinion, covers the whole ground. It is in fact this: that the people of this Territory agree to meet here under the Enabling Act, and in accordance with that act. I think that resolution fixes the boundary of the proposed State. If we accept the Enabling Act, we accept it as a whole. If we reject a part of it, what guaranty have we that we do not reject every part of it? Suppose that having come together under that act, elected under it, holding our seats by virtue of it, we undertake to repudiate it, is Congress bound any longer? They are bound now. Congress, or rather the United States, has done its part; and now we are in process of doing our part. It is for

us to put our signatures to the compact. Let us fail to do that and we, as the other party, violate the whole instrument, and the United States are no longer bound.

Now, sir, whether this question of boundary is to come up afterwards or not is a serious one. Here we are cast where? At anchor. The United States, which has been our guardian for a number of years gone by, has now said to us in effect: "You are old "enough to do for yourselves. Go and so do. "We will give you no more appropriations. "You must go and work your own way." Now, suppose we go and tear up this proposition which the United States offers, and strike out in a new course, where shall we be left? At sea, without compass or rudder; perfectly at sea. We make a Constitution there, not under the Enabling Act; we reject that in the start, and go on our own hooks; we become squatter sovereigns of the deepest dye. We say we will have our own boundaries, and the United States may well reply: "Gentlemen, if you reject our proposition, "you may support your own schools, you "may build your own university, you may "get your own five per cent. of the net pro- "ceeds of the sales of the public lands for "public buildings." That is what the United States would have the right to say.

But there is another view of this matter which is important. The language of the Enabling Act is peculiar. We become a State as soon as we have complied with that act. The language is that *they shall become a State* when they have complied with the terms proposed. All we have to do is to adopt a Constitution that is consistent with the Constitution of the United States, elect our own officers, go to the door of Congress, and demand admission, and we come right in. We accept of the conditions proposed to us, and *eo instante* we are a State sovereignty of this Union. But let us go to work and form a Constitution upon squatter sovereign principles, and they may become squatter sovereigns too.

Sir, I believe Congress has the right to care for the Territories, and not only that she has the right, but that it is her bounden duty. So long as the men who live there go voluntarily on the land of the United States, take its money and live under its protection, so long it is their duty to submit to the guidance of the United States. Children who cannot walk, who cannot provide for themselves, should not dress themselves in their parents' clothes.

The door is wide open, and let us come in on the terms proposed. I will not debate the question of the relative advantage of a north and south or east and west line. I am content to take this proposition as it comes to us. Adopt that and we come into the Union within the next year. Adopt another line and we come in, who knows when? Here is another question, and in this Republican Convention, I need not hint what may be the probable result. Next winter, in all probability, there will be an application to admit Kansas into the Union. If we comply with the terms proposed, we cannot be denied admission without a breach of faith; but let us reject those terms, and we may be told that we cannot come into the Union with our free Constitution until Kansas also comes in with her slave Constitution.

So far as the relative advantages of these State lines are concerned, I have not determined in my own mind which carries with it the greatest advantages. If anything, I think the north and south line is the better line of the two; but whether that be so or not, we came here as practical men, and as practical men, let us not put into our Constitution anything which shall endanger its acceptance in Congress or by the people; for, let our Constitution be rejected, and the expenses of this Convention—$50,000, $60,000 or $100,000—will have to be borne by ourselves, and will be worse than thrown away. The people of the Territory have, in my opinion, determined already that we shall have a north and south line by electing delegates to this Convention under an act prescribing that line. And I take it for granted, that this line was not adopted without a reason. It was adopted, after examining the geography of the country, as the better line. A great many wise men and good men acquainted with the country, tell me that the north and south line is the best line. Others, equally wise and good, say that the east and west line is better. But I submit it to this committee, whether as Republicans and good citizens we should not accept this proposition as it comes

to us from Congress, with the boundaries defined by Congress? At any rate, let us discuss the question calmly and dispassionately, and if gentlemen can show good reasons for a different course, I have no feeling in the matter.

Mr. McCLURE. If we, by a vote, determine that we will not accept the proposition made by Congress, I presume our services are at an end, and we have no authority here whatever to go on and form a Constitution as a Constitutional Convention. As such Convention we have authority, by the Enabling Act, to say nothing and do nothing as to an east and west line. Congress has passed an act, and made provision by which we may come in as a State on an even footing with the original States, provided that when we assemble in this Constitutional Convention, we say by a vote that we will accept the terms proposed in that act. A refusal to accept them is equivalent to saying we will go home, for surely no individual will sit here after that refusal. If we do accept of the terms, then, so far as the line is concerned, it is fixed by Congress, and we can go on and frame a Constitution. If we do not accept them, we may as well go home and wait until some other provision is made to enable us to come into the Union on an equal footing with the orignal States.

I have no interest in a north and south line, any more than I have in an east and west line; but I have an interest, as a citizen of the Territory of Minnesota, within the bounds prescribed by the act of Congress, in common with very many at least, to cease to be a Territory, and to come in as a State; and if I had any pecuniary interest in this matter, I should sacrifice it in order to get out of the condition in which we are now placed. We cannot form a Constitution, except for the limits prescribed by the Enabling Act, and consequently I am in favor of accepting the terms of that act, and going on and framing a Constitution. Suppose we refuse to accept the terms, we may as well, as I said before, go home. Suppose we do go home, and to-morrow at twelve o'clock another Convention, headed by a government officer, shall organize a Convention and accept the proposed terms, they will go on—because they will do almost anything illegal—and frame a Constitution, submit it to the people, and if the Republicans do not go out and vote upon it, of course it will be adopted, and the Republicans will have come here, organized, but refused to do that for which they were sent. For one, I do not feel like going home in that way. I hope gentlemen of the Convention will express their views freely upon this point, and come to a determination as soon as possible.

Mr. COGGSWELL. I desire to understand where I stand, the position I occupy, and the step I am about to take. It seems to me that it does not require a great amount of discrimination to discern between the right of the inhabitants of a certain tract of land to perform a certain act—for instance, to elect certain individuals to represent them in Convention—and the acts and conduct of their representatives when assembled in Convention for the purpose of doing what they were sent here to do. I do not understand, as stated by the gentleman from Scott county [Mr. GALBRAITH], that the moment we adopt this resolution we become a State, and that Congress has no right or authority to say that we are not a State, and not entitled to admission into the Union as a State. Suppose that nothing had been done under the Enabling Act, except the election of members to the Convention, do we thereby adopt the whole of that Enabling Act, so as to bind ourselves to the limits proposed by that act? By no means. Suppose we simply convene here, organize, choose our officers, and take no further steps, do we adopt the provisions of that act in such a manner as to preclude ourselves from saying that we desire a different boundary? When we simply say that the people of the proposed State desire to be admitted into the Union on an equal footing with the original States, do we say that we adopt the limits proposed by Congress, and that they are perpetually binding upon us as a State? I do not so understand it. If we compare this act with the Enabling Act of Michigan, we shall find it substantially the same. Yet it was not the understanding of the Michigan Convention, organized under it, that the limits proposed by Congress were perpetually binding upon them, for if they had, in my judgment, they would have recommended a different boundary.

I wish my friends to discriminate between a State to be organized within the proposed limits, and the vote we are now called upon to give, which is substantially that the people of the proposed State desire a State organization, and to come into the Union as one of the States. When we take this vote, and vote in the affirmative, we are not, as I stated before, a State, but we must go on and make a Constitution. If we neglect to do that, are we a State? Not by any means. Suppose we frame a Constitution and neglect to have it ratified by the people, are we then a State standing upon an equal footing with other States? By no means. We are not a State until certain resolutions are passed by Congress, sanctioning our form of government as being republican, and sanctioning our proceedings as being carried on under the Enabling Act.

There is a distinction between the adoption of this resolution, and the binding of ourselves down perpetually to the proposed limits mentioned in the Enabling Act; and I want members of this Convention to look upon it in that light, if it looks reasonable to them.

I am in favor of adopting this resolution, or something substantially the same; of placing ourselves in a position to frame a Constitution, and then of going before the people and telling them that we have done our duty faithfully.

If I were to prophecy, it would be that nearly two years will elapse before we become a State. My impression is that under the present Administration, whatever Constitution is adopted by this Convention, as at present organized, that Constitution, though ratified by a very large majority of the inhabitants of the Territory, will not be accepted by Congress. For this reason, I desire that this question and all other questions be distinctly, perfectly and clearly understood. The idea that the moment we adopt this resolution we are bound down to these limits, is preposterous, and is not founded in either precedent, common sense, or the Enabling Act.

Mr. BILLINGS. Whether the people of this Territory have the right or not to meet and frame a Constitution and State government, without any assent upon the part of Congress, I do not propose to discuss. But the first part of this Enabling Act gives to the people of certain portions of this Territory the right to form a State Constitution. The latter part of it, after giving the boundaries, reads thus:

"They are hereby authorized to form for themselves a Constitution and State government by the name of the State of Minnesota."

Now, the Enabling Act does not give to the Territory of Minnesota the right to form this government, but only to the inhabitants of a specific portion thereof. In our reasonings then, we hold that members elected and returned in precincts beyond the proposed boundaries, cannot sit in Convention. Now, if they cannot, because they are beyond the proposed boundaries, how can we, within the proposed boundaries, legislate for those we would exclude from certain boundaries?

The third section provides for the election of delegates, and the latter clause of it tells us that when we meet, we are to "determine "by a vote." Who to meet? The delegates chosen within the boundaries of the proposed State. What to determine? "Whether it "is the wish of the people of the proposed "State to be admitted into the Union at this time," *as such* proposed State. "As such," to be sure, is not expressed, but it is understood. And if they do so determine, they "shall proceed to form a Constitution, and "take all necessary steps for the establish-"ment of a State government."

Again, the fourth section says that "in the "event said Convention shall decide in favor "of the immediate admission of the proposed "State into the Union, it shall be the duty of "the United States Marshal for said Territory "to proceed to take a census." Now, if we propose to form a State with boundaries different from those proposed in this act, the Marshal is not obliged to take a census.

The fifth section offers certain propositions to the "said Convention of the people of Min-"nesota." If the people accept the offered boundaries, then the people of that Terrritory shall have the right to do so and so.

There are questions which, in my mind, outweigh the question of boundary; and it occurs to me that, if we desire an immediate admission into the Union as a sovereign State, we have but one road to pursue—we must accept of the conditions without change.

Think you the Republicans in Convention in Minnesota, can dictate to our superiors not only in the Territory—I speak of them as officers and not as men—but to an Administration which will be adverse to the ruling of this Convention, and succeed? Certainly not. Hence my vote now is, and always must be, to accept, without restriction or enlargement, the conditions imposed upon us by the Enabling Act.

Mr. WILSON. The second resolution is offered as a substitute for the first, and, as a substitute, is amendable. For the purpose of harmonizing the feelings of those here who may be in favor of different boundaries, I propose to offer an amendment to the substitute. I do not conceive it necessary or wise, at the present time, to raise the question of boundary at all. For my own part, I probably agree with both parties. I believe that Congress has the right to prescribe our boundaries, if they so choose. I believe also that we are not required to pursue that boundary and that only; yet, if we vary from it, we may be rejected. I do not believe it necessary, before a Territory assumes a State government, that there should be any Enabling Act, nor do I suppose that if there be, we must follow it out in minutia. We may make such changes as we see fit, and then Congress may act upon it. But at the present time, I do not wish to raise the question of boundary at all. I wish to accept the act unqualifiedly. I will read the Enabling Act, and then read my amendment, which I hope will be satisfactory to all parties, and do away with this question for the present Section three, after first stating how the delegates shall be elected and where they shall meet, says they shall "first determine by "vote whether it is the wish of the people of "the proposed State to be admitted into the "Union at this time, &c."

That is what we are to vote upon and nothing else. Now, I propose the following substitute:

"*Resolved*, That it is, at this time, the wish of the people residing within the limits designated in the act of Congress approved

entitled 'an act to authorize the people of the Territory of Minnesota to form a Constitution and State government, preparatory to their admission into the Union on an equal footing with the original States,' to be admitted into the Union upon an equal footing with the original States."

This amendment is framed in the very words of the Enabling Act. That is all, I think, that is necessary in this case. It leaves the matter of boundary untouched. If we must discuss it at all, this is not the time to do so. No man can feel that this resolution will prejudice us, because it was the very language of the Enabling Act. I would like to see this adopted as a substitute, and the others waived, not because I differ from them altogether, though each is objectionable in some respects.

Mr. HUDSON. So far as the substitute of the gentleman from Winona [Mr. WILSON] is concerned, I really do not understand that it differs from the resolution as proposed to be amended by Mr. COGGSWELL. Each is simply a declaration that the people of Minnesota desire to become a State. It seems that we are acting under a certain act of Congress, which provides that the people shall meet on a certain day, elect certain delegates to appear at a certain time and place to perform certain business. Now, it seems to me a very plain matter that, if the people had met on any other day than the one specified in the act, we should not be delegates such as could act under this Enabling Act. It also seems to me that if the delegates elected had met at any other place than the one designated in the act, they could not make a Constitution such as Congress would accept. Congress has provided for our coming into the Union upon certain conditions, and the moment we comply with all those conditions, we become a State. Whenever we step outside of the limits specified in that Enabling Act, we cease to be delegates competent to act under the law, but should be here simply as an independent body of men, without delegated power. Yet, under such circumstances, should we form a Constitution which should be ratified by the people, and Congress should be willing to admit us after examining the matter, it would be all right. But Congress says that after we have done certain acts we are a State. They will have to take cognizance of our proceedings, and unless they can show that we have stepped outside of the privileges they gave us, we shall have a right to claim our place in the Union with all the

ights and privileges of States. Such seems to me to be the whole matter, and I must support the original resolution, rather than the substitute, not because they essentially differ so much as because I am opposed to encumbering our proceedings by a succession of resolutions of substantially the same effect.

Mr. PERKINS. By the Enabling Act, we are to determine by a vote whether the people in the proposed limits wish to come in as a State, according to the Enabling Act. Does the resolution say "according to the Enabling "Act?"

The PRESIDING OFFICER. It does not.

Mr. PERKINS. Well, it seems to me that the question whether the dividing line shall run east and west or north and south does not properly arise in this debate. The question is simply whether the people in the prescribed limits wish to come in as a State. It is not a question as to the particular form of the State, or whether anybody outside of those limits wish to come in as the proposed State. If any gentleman here knows of any one who does not wish to come in as the proposed State, let him say so. We are to determine the simple question whether the people within the prescribed limits have such a wish? Let that be first determined, and we can decide the shape of the State afterwards. I presume no man's constituency desires not to come in as a State. I know there has been a question as to how the line should be run, but as to the other matter there is no question.

I see no difference between the original resolution and the substitute offered by the gentleman from Winona [Mr. WILSON]. At any rate, I agree with him that the question as to the line is not involved in this proceeding.

Mr. MANTOR. I conceive that there is a question of vital importance involved in the resolution before the Convention, and in reference to which our constituents are looking to us with great interest to know exactly how we cast our votes thereon. They are looking with deep interest to see in what mode and manner this Convention will dispose of the boundaries of the incoming State. I can see nothing in the Enabling Act which would prescribe any measure which this Convention might see fit to take hereafter to establish an east and west or a north and south line. The resolution should leave that matter an open question. The question to-day seems to be, are we willing to become a sovereign State? and to that question I answer, as an individual member of the Convention, "yes," and for it I heartily give my vote. I am aware that the eyes of the whole Territory are upon us to see what measures will be taken in this Convention in reference to the proposed limits of the State. I conceive that it is better for us, under the peculiar circumstances by which we are surrounded, to assume the ground at least to-day that we will become a State, for if we leave without so doing, a great advantage may be taken of our neglect. Our constituents demand immediate action, and will blame us if we postpone it. If we cannot come at once to a conclusion upon this point, I conceive it would be far better for this Convention to dissolve itself, rather than remain in committee forty-eight hours to discuss a question which seems to be the turning point—and that is whether we wish to become a State.

Mr. COLBURN. The gentleman upon my right [Mr. WILSON] gives, as the first reason why we should support his amendment, that this is not the time to decide the question of the boundaries of the State. I cannot agree with him in that respect. I believe that this is the time to meet the question, and to meet it fully and fairly. I believe it should be decided now, in the incipient stages of our proceedings. Suppose that we simply declare that the people of the proposed State desire to be admitted into the Union at the present time, without defining the boundaries in any way or manner, what will be the result so far as it relates to our action? Suppose we appoint, among other committees, one upon "boundaries," and they should make a report, which should be adopted in the Convention, in favor of an east and west line, what would be the result? We should find men in this Convention living without the limits of the proposed State, and consequently having no right to participate in the proceedings of this Convention. If they have no right to participate in our proceedings, we shall be under the necessity of excluding them.

It is true, as gentlemen have argued, that

we can, if we choose, adopt different boundaries from those prescribed in the Enabling Act; but the effect of such a course would be most serious upon the acts of this Convention. The Enabling Act commences in these words: "That the inhabitants of that "portion of the Territory of Minnesota which "is embraced within the following limits," and then proceeds to define the boundaries precisely. The third section provides "that "on the first Monday of June next, the legal "voters in each representative district then "existing within the limits of the proposed "State." What proposed State? The one proposed within the boundaries prescribed in the first section, and the voters within those limits, are the ones entitled to elect delegates to the Convention. They have thus far complied with the provisions of the act, by electing delegates. If we, in Convention, establish a different line, we repudiate the act, cut ourselves loose from it, and release Congress from all obligation upon their part, so far as this act is concerned. If, assuming different boundaries, we go on and frame a Constitution and State government, Congress may or may not accept us, as they choose. But there will not be even an implied obligation upon their part. I believe the people have the right to frame a State Constitution without an Enabling Act of Congress, but having accepted it by electing delegates, it seems to me the height of folly to cut ourselves loose from it, and adopt a course which is not expected of us by our constituents. I propose to meet this question before we proceed any further, and if any members of the Convention have to leave their seats on account of our decision, adopting another line, let them know it, so that they may leave now. So far as my own feelings are concerned, they are in favor of an east and west line; but I am satisfied that if we cut ourselves loose from the act, there will be the best possible excuse on the part of Congress for rejecting us.

The Enabling Act itself passed by a very small majority, and the Southern vote was quite unanimously against it. If we send a Constitution to Congress with different boundaries, and thereby distract the small majority by which we got this act, the probability is that we shall be rejected by Congress, and kept out of the Union two or three years longer, a result which would suit quite a large portion of this Union. For one, for the purpose of having my preferences gratified, I am not willing to run that risk; and, therefore, I shall be obliged to vote against the resolution of the gentleman from Winona [Mr. WILSON], upon the ground that it avoids a decision of the question of boundary, and because I desire a resolution to be adopted which will embrace exactly the boundaries defined in the Enabling Act.

The question was then taken on the substitute offered by Mr. WILSON, and it was not agreed to.

The question was next taken upon the substitute offered by Mr. COGGSWELL, and there were on a division, ayes 15, noes 31. So the substitute was lost.

Mr. STANNARD. I now move that the committee rise and report back the original resolution to the House, with a recommendation that it be adopted.

The motion was agreed to.

So the committee rose, and the President having resumed the chair, Mr. NORTH reported back the resolution, with a recommendation that it do pass.

Mr. COGGSWELL. I now move to amend the resolution by striking out the word "in-"habitants" and inserting the word "peo-"ple," and by striking out the words "pro-"posed limits" and inserting the words "proposed State." I have no feeling in this matter. I only wish to place the resolution in a position where it cannot be misconstrued.

The amendment was agreed to.

Mr. WILSON. I shall be very brief, but I cannot consent that this resolution should pass without expressing myself distinctly. I am a little astonished at the course which has been taken by this Convention. I should much preferred to have seen a resolution passed which would have complied with the requisitions of the Enabling Act, without raising the question of boundary at this time.

We have not the full number of delegates elected to this Convention present, and it seems to me it would be much better, if it is not absolutely requisite, that there should be something like unanimity in the passage of a resolution of this kind. All of us are in favor of coming into the Union under the Enabling Act, but all of us are not in favor of coming

in according to the terms of the Enabling Act. And why is this boundary question forced upon us in this manner? It is for the purpose of compelling us to adopt the proposed boundary, in order to comply with the terms of the act relative to our wish to come in as a State. It is for that purpose, and members feeling like myself upon this question do well to understand it distinctly. It is here for the purpose of compelling us to act without preparation. We are most, if not all of us, here not expecting that we should be called on to act on this boundary question at this time. We have thought of it but a few hours, and we are not ready to decide it. It should not be decided without full deliberation.

Sir, I know the origin of the boundary line laid down in that Enabling Act. I know its inception in Congress. I know how it got there. I know it was not the wish of the people of Southern Minnesota—and we are no small minority in the Territory. Mr. President, representing a constituency who feel deeply upon this subject, I protest against this question being decided in such a resolution as this. It is unnecessary. We may pass a resolution which shall in every respect comply with the requisitions of the Enabling Act, without touching the question of boundary at all.

But it has been said that this boundary was inserted in the Enabling Act, in pursuance of the petitions which were sent from the Territory. No sir. There was no such thing. The largest number of those petitions went from Winona and the country adjacent, and ninety out of a hundred of the signers were in favor of an east and west line. The parties who signed those petitions protested against their being used as inducements for the establishment of a boundary to which they were opposed.

Sir, our interest, we conceive, will not be satisfied with a north and south line. We have to-day witnessed scenes in this hall which will be reenacted, if this boundary line be confirmed. And why? It is notorious that Saint Paul has controlled the Territory of Minnesota up to this time. They have done it, how? Have they done it as rowdies and blackguards or as gentlemen, by force of moral suasion and force of reason? Answer, ye delegates, answer, for ye know. The reasons are obvious why this should not be a State extending from Superior to the Iowa line. The southern portion of this State is all agricultural. The interests of its inhabitants are diverse from those of Saint Paul, and from those of the northern section of the Territory. Adopt the north and south line, and Saint Paul will forever have the management of the State in her own hands. It must necessarily be so, and what discord will it create in our Legislatures? We shall have to meet this thing year after year. I warn gentlemen to beware before they act. The favorers of this north and south line have taken us at the very commencement, and with the very best feeling towards them, I say let us meet them too at the threshold, and not permit this important question to be decided without mature deliberation. That is all I ask. I am willing that the Convention should act promptly, so far as is necessary to comply with the requisitions of the Enabling Act; and I shall be ready and willing to meet the question of boundary hereafter when it shall arise. The point I wish to make now is, that it is unnecessary at this time to decide the question.

Mr. ROBBINS. At the present stage of our proceedings, I do not feel that I could do justice either to myself or my constituency, were I to undertake to answer the arguments that have been introduced here to-day in favor of a north and south line. It is a subject I did not anticipate would be opened at this stage of our proceedings. But, gentlemen, all I ask is that you will allow this subject to go over untill to-morrow, and we will be ready to meet you upon this north and south line. I hope the resolution will be laid on the table until that time.

Mr. NORTH. I concur fully in the sentiment of the resolution before us; but its form, it seems to me, is somewhat complicated. I think perhaps the phraseology may be improved in some respects, leaving the meaning precisely the same. I have prepared a substitute, which I will read to the Convention, if it is in order:

"*Resolved,* That it is the wish of the people of the proposed State of Minnesota to be admitted into the Union at this time, in accordance with the provisions of the act of Congress entitled 'an act to authorize the people of the Territory of Minnesota to form a Constitution and State government,

preparatory to their admission into the Union on an equal footing with the original States.' "

This is substantially the same in meaning as the resolution now before the Convention, and it contains the provision that the State shall be admitted in accordance with the terms of the Enabling Act. If the resolution is in order, I should like to say a few words in connection with it.

I wish to say in regard to the form, that I hardly deemed it necessary to say "we the "delegates, &c." This is a regularly organized body, and our action as a body speaks for itself.

Now, sir, in regard to the provisions of the resolution, it seems to me that the reasons which have been urged for accepting the proposition of Congress, according to the terms of the act passed by Congress, are good. It seems to me that insurmountable difficulties will arise and multiply in our path, if we attempt to step aside from the plan laid down for us, and change the boundaries of the proposed State. These difficulties have been stated, and it seems to me they are serious ones, and ought to have weight in the minds of the members of the Convention, as they do have weight in the minds of the people at large. I believe a decided majority of the people of the Territory are in favor of accepting the terms of the Enabling Act, with the boundaries as therein defined. I believe it would be unsafe to depart from them for many reasons.

We know how strenuously that Enabling Act was opposed in Congress. We know how strenuously one section of the Union opposes anything like the admission of a free State into the Union. Instances of this are too numerous to need reference to, and it seems to me it does not need argument at this time, in the face of these facts. It is true that precedents have been cited for this course, but gentlemen will bear in mind that the present times are not like those we have seen. The time has been when such questions could be discussed dispassionately in Congress, but I think that time is not the present. That time does not exist now; and we have to do with facts as they exist, and as they will exist when we come to apply for admission into the Union.

Now, sir, I have never been able to get up any feeling upon the subject of this north and south or east and west line. The arguments are very strong on both sides, and I have but little choice in the matter; but the question having been settled by Congress, it seems to me it is the act of wisdom to accept of the proposition as it is.

The gentleman from Winona [Mr. WILSON] has alluded to the way we are treated here in Saint Paul, and to the political aspect of affairs in case this boundary is adhered to. Now, Mr. President, I have ever been opposed to carving out States for the success of this or that political party, but I ask gentlemen who are in favor of such a course, what permanent gain they are to expect from it? Those who are initiated have seen how rapidly changes take place here in the West. The aspect of things to-day is no sure criterion of what the aspect of things will be to-morrow. I cannot believe that Minnesota, with her north and south line, will be other than right; but if so, let us struggle on. Besides, I think we should feel an interest in the northern section of the Territory. But I do not think considerations of this nature should influence us in any degree. We should take a practical view of the subject, and judge of it in all its bearings.

But I will not take up the time of the Convention. In reply to the suggestions which have been made that gentlemen need more time to consider this subject, I have to say that this question has been pretty thoroughly discussed in the last six months, and that there is no need for further consideration.—The question is a very plain one. We should pass upon this question at once, and in my judgment, pass upon it as a whole, though I would by no means wish to injure the feelings of any member who wishes further time for consideration.

Mr. GALBRAITH. We have very little time in which to discuss this question. Our Southern Minnesota friends, seem, some of them, perhaps all of them, to urge a change in this Enabling act. Now, sir, the wisdom of that policy has not been shown to one in this Convention. What are the reasons urged in support of it? What are the reasons urged by my friend from Winona (MR. WILSON)? Why, that St. Paul is going to control this territory. Well, sir, if I stand here

alone, and Saint Paul undertakes to drive me from hence, they will walk over my dead body before I leave this room. We do not intend to be brow-beaten by St. Paul. We are the last men who should cry out: "afraid "of St. Paul!" We need no protection from those who rushed in here to-day, cried out "I "move to adjourn," and then ran out again. —Did that scare us? Let them come on, we are ready to die in our tracks rather than yield. (Applause.) We, afraid of St. Paul! Who is St. Paul? (Laughter) Let them come. We have no guns, no pistols, no slung shots, but we are ready to meet them, and will not be driven from this hall.

But suppose you adopt the East and West line, will not St. Paul still be within the limits of the proposed State? How can you avoid it? If we had the power to annex it to Wisconsin, (laughter) we might rid ourselves of her by that means. But adopt which line you will, St. Paul will be with us any how.

And, sir, I do not concur in this wholesale condemnation of St. Paul. There are good men, noble men here, plenty of them; men who will protect you at all times and under all circumstances, and who always have done so. I see some of them even in this hall. I can point them out all over town. St. Paul is not a nest of vipers. I do not believe it. But to those who complain that St. Paul has always made trouble in the Territory, that she is a political eye sore to the Republican party, I have to say that we are not to frame a Constitution for the Territory and for St. Paul as they now are, but we are to frame a Constitution for our children and our children's children. And what matters it whether the St. Paul of to-day is Democratic or Republican?

In reference to the propositions before us, I can see no difference in substance whatever. They are the same thing in fact. I am in favor of adopting one of them without further delay, and we shall then be ready to proceed with our work. Let the matter of the boundary line stand for weeks and what do we gain by it? How much information will you receive. Let the Convention accept this proposition as it comes to us, and then if a majority are in favor of an East and West line, at the end of the Convention, we can send a Memorial to Congress, praying them to change the boundary; and that will be the end of the whole matter. I think the Convention should adhere to the proposition just as it is at this time, as a precautionary measure, as a measure of safety. I beg the pardon of the Convention for occupying so much of their time. I say it with the utmost respect for the gentleman from Winona, (Mr. WILSON) but I do not think St. Paul is quite as bad as he represents it, or at least not quite so dangerous.

Mr. KING. The question lies right here: The gentleman wants to know what objection we have to the North and South line.—Well, sir, as a representative for Southern Minnesota, I will make the solemn prediction, that if we go on and frame a Constitution with this North and South line, the people will repudiate the Constitution, and we shall remain out of the Union for a year or two longer. I do not apprehend any danger from this change of boundary. Certainly we shall lose nothing by asking. When did you ever know a little boy to get less by asking, than would have been given to him without? We shall lose nothing by asking for this East and West line.

Now, sir, Congress passed this Enabling Act, and how did they pass it? If we are to believe a statement which has been going the rounds of the papers, they got to log rolling and one of the Senators from Ga., [Mr. TOOMBS] supported this specific boundary as it now stands, for a specific purpose. Sir, our Supreme Court Judges have determined in favor of the nationality of that abomination which we detest, and now by accepting in full this Enabling Act, we are subscribing to an act that will unavoidably send to the Senate of the United States two supporters of that abomination.

But we must make our choice, and I ask gentlemen which they will do? I do not understand Congress in the Enabling Act to decide what we must do. It tells us what we may do, and Congress will not object to anything of this kind which we deem to be right. I am willing to take the risk we shall incur. Sir, the delegation from Southern Minnesota have been trying to have this question come up by itself upon its own merits before the Convention, but they have been foiled thus

far. I hope that we shall have a fair expression of the opinion of the Convention upon it.

Mr. WILSON. I evidently spoke so as not to be understood by the two gentlemen who immediately followed me. I did not wish nor do I now wish, to be understood as desiring to form a State which will be a Republican or a Democratic State, or to be at all influenced by the political complexion of those who are to live in it. I desire merely to form such a State as will meet the interests and wishes of those who are to live in it, and especially of my own constituency.

As to this thing of being afraid of St. Paul, I see nothing in the remarks of the gentlemen (Mr. GALBRAITH) pertinent to any thing I have said. I have alluded to no such fear. If there is any necessity of meeting the enemy, I will go as far as he who goes farthest to maintain our rights. It is not necessary to argue that question, and I do not want to argue it. There are sometimes things which, though we do not fear them, are annoying, and we desire for that reason to avoid them. That is all I have to say on that point.

But that is not the only objection to this North and South line, and the reason why I do not go further into a statement of the benefits of the East and West line is, that I know the delegates coming here understand the benefits arising from the adoption of that boundary but where is the necessity of settling this question now and in this connection? No gentleman has said that it is required in order to comply with the requisitions of the Enabling Act, by settling that question in such a resolution as this, which we all desire should be passed with unanimity.

The amendment of the gentlemen from Rice County [Mr. NORTH] cuts just as deep as the other, but a little smoother. It is a species of legislative trickery to connect in one bill different projects. You may like one measure very much, and because you do, I make you go for another you do not like, in order to get what you do like. Leave us to say now only whether we will not come in as a State or not, and then afterwards by what boundaries. They are two distinct propositions, and should be submitted to us separately. Many members of the Convention now appear for the first time in a legislative body. They are not acquainted with the mode of doing business. Sometimes they are misled. But everything can come up separately and all will be right. I do not wish to submit to doing something I dislike, because it is yoked with something I like. Separate them and let us have the wishes of the Convention distinctly and fairly expressed and that is all I ask. These are my opinions. I have not argued the benefits of the North and South or the East and West line because we all undestand them.

Mr. NORTH. In regard to this trickery of forcing two questions at once, I wish to say that the thing has been tried separately. The amendment of the gentleman from Steele County brought the question before the Convention in a separate form, and his amendment was voted down. I had supposed, therefore, that the Convention had decided they would take them together. Supposing they had come to that conclusion, I thought the wording of my substitute was a little more direct than the original, and that is the reason I proposed it. It was not done for the purpose of concealing any thing; not for the purpose of trickery; nor for the purpose of forcing through two things together, which would not pass separately.

Mr. WILSON. I did not intend to impute trickery to the gentleman who has just taken his seat. I meant to say, and did say, that this method of tacking together bills discordant in their provisions, and passing them together, is a species of legislative trickery—that the practice was legislative trickery—and the gentleman stated very fairly that he did not consider that the two provisions necessarily went together.

Mr. COLBURN. It may be thought, from the position I took upon the amendment of the gentleman from Winona Mr. [WILSON] that I was endeavoring to force action upon this question. My idea was that this Convention should first decide this question as to the wish of the people,—not that I desire action upon it to-day, if more time is desired. There are gentlemen here who feel that they owe certain duties to their constituents, whose views and feelings should be represented fairly and fully before the question is taken. Those gentlemen desire more time

for investigation, and I am the last person that would deprive them of that privilege.

Speaking for the County which I have the honor in part to represent, I do not believe that the people of Southern Minnesota are going to reject the Constitution which we form, on account of the boundaries which we may establish, whether by an East and West, or a North and South line. Fillmore County will vote for the Constitution, if it be Republican, regardless of the boundary of the State. Neither do I fear political considerations. Give Southern Minnesota her fair representation in proportion to her inhabitants, and St. Paul may do her best, politically. I think that the question of political power should not influence us. I am ready to concur in any action gentlemen may desire, and give them suitable time to investigate this question; but I shall insist that the question of boundary should be settled before we proceed to any other business of the Convention.

The question recurring upon the substitute of Mr. NORTH—

Mr. WILSON demanded the yeas and nays.

The yeas and nays were ordered, and the question being taken there were yeas 41 and nays 15 as follows:

Yeas—Messrs. Aldrich, Ayer, Balcombe, Baldwin, Bates, Bartholomew, Billings, Bolles, Butler, Cleghorn, Colburn, Coombs, Dooley, Dickerson, Eschlie, Foster, Galbraith, Hall, Hayden, Harding, Hanson, Holly, Kemp, Lisle, Lowe, McKune, Messer, Morgan, Murphy, North, Perkins, Putnam, Peckham, Russell W. F., Stannard, Secombe, Smith, Vaughn, Walker, Winell, and Watson.

Nays—Mesars. Anderson, Coggswell, Coe, Cederstam, Davis, Folsom, Gerrish, Hudson, King, Mantor, McCann, McClure, Robbins, Thompson, and Wilson.

So the substitute was adopted.

Mr. WILSON. I do not like to be troublesome, and if things stood in any different shape, I would not offer a substitute. The substitute adopted stands instead of the original resolution, and is still open to amendment. The reason why I offer a substitute is, that it appears to me that there ought to be a majority of the whole number of delegates to this Convention, in favor of this resolution, which majority evidently cannot be obtained if the two questions are connected together. My amendment is this:

"*Resolved*, By the House of delegates duly "elected by the people of the Territory of Minne- "sota residing within the limits described by the "act of Congress approved —— entitled "An act "to authorise the people of the Territory of Min- "nesota to form a Constitution and State Govern- "ment, preparatory to their admission into the "Union on an equal footing with the original "States," assembled at the Capitol of said Terri- "tory, do hereby determine that it is the wish of "the people of the proposed State to be admitted "into the Union at this time."

I use the very language of the act, and nothing else.

Mr. STANNARD. If I sought to defeat this amendment I would throw myself upon parliamentary practice. We have had substitute upon substitute. The gentleman from Winona [Mr. WILSON] is very anxious about this question of St. Paul. The first question to settle is the boundaries of the future State. I live and represent a constituency north of the proposed East and West line, and I could not sit here with satisfaction to my conscience, or credit to myself, and claim that I had a right to participate in the formation of a Constitution for a people living in a State formed from Southern Minnesota. I claim that the first question to be decided is that of the boundary, and if that question is to engage our attention day after day, we might as well adjourn immediately *sine die*. I do not believe that we would be admitted into the Union with boundaries different from those prescribed in the Enabling Act; and all the time and money we spend here to change those boundaries, will be thrown away. I think that those who think with me, have conceded considerable, and I ask the gentleman from Winona to concede as much.

Mr. HARDING. I wish it to be distinctly understood, that it is my opinion, and has been ever since I saw the Enabling Act, that the best thing we can do is to come into the Union under that act, and to take the boundaries Congress has proposed. I am aware that there is a feeling in Southern Minnesota adverse to it, but in my neighborhood, every man is of the opinion I have expressed.

Mr. COLBURN. I design to vote for the amendment of the gentleman from Winona, so that if we are to have an accession of members to-morrow, they may participate in the question of settling the boundary of the

proposed State. If those delegates should not come into the Convention to-morrow I shall be ready then to vote upon the question of boundary.

Mr. STANNARD. The fourth section provides that after this question is decided, the Marshal of the Territory shall proceed to take a census. Now to show the gentleman that it is impossible to separate those two questions, suppose we leave this question undecided to-day, what inhabitants shall the Secretary of the Interior order the Marshal of Minnesota to take the census of?

Mr. COLBURN. I have said that if we are to have no accession to our numbers to-morrow, I shall be willing to vote upon the question of boundary then.

Mr. HAYDEN. It is true these are two separate questions, yet I cannot see the necessity of their separation, or even the consistency of a separation.

The question was then taken on the amendment offered by Mr. WILSON, and it was not agreed to.

Mr. GALBRAITH moved a reconsideration of the vote just taken, stating that he did so at the request of the mover of the amendment in order that a vote might be had thereon by yeas and nays.

The question was taken and the motion to reconsider prevailed.

The question recurring upon the amendment, on motion of Mr. GALBRAITH the yeas and nays were ordered; and being taken, there were yeas 16, and nays 38, as follows:

Yeas—Messrs. Anderson, Balcombe, Billings, Colburn, Coe, Davis, Dooley, Gerrish, Hudson King, Mantor, McCann, McClure, Robbins, Thompson, and Wilson.

Nays—Messrs. Aldrich, Ayer, Baldwin, Bates. Bartholomew, Bolles, Butler, Cederstam, Coombs, Dickerson, Eschlie, Foster, Folsom, Galbraith, Hall, Hayden, Harding, Hanson, Holly, Kemp, Lisle, Lowe, McKune, Messer, Morgan, Murphy, North, Perkins, Putnam, Peckham, Russell, Stannard, Secombe, Smith, Vaughn, Walker, Winell, and Watson.

So the amendment was lost.

Mr. STANNARD. I call for the previous question.

Mr. MORGAN. Before that is done I desire to move to strike out the word "approved——" as we are not able to fill the blank, and the act is sufficiently referred to without those words.

The amendment was agreed to.

The previous question was then seconded, and the main question ordered to be put; and the question being taken upon the resolution as amended, it was adopted.

Mr. SECOMBE moved to reconsider the vote by which the resolution was adopted.

The motion was not agreed to.

ORGANIZATION OF THE CONVENTION.

Mr. HUDSON. I move that the written request, in response to which this Convention was called to order by Mr. NORTH, be by him presented to the Secretary of the Convention, and that the same be entered in its appropriate place upon the journals of this Convention.

Mr. STANNARD. I am opposed to that motion. I do not think the written request of any account, and I do not desire to encumber the Journal with anything that is not perfectly pertinent to our proceedings. Any gentleman had the right to call the Convention to order.

The motion was agreed to.

CNESUS OF THE TERRITORY.

Mr. MANTOR offered the following resolution:

"*Resolved*, That the Secretary of this Convention be, and is hereby instructed to notify the United States Marshal, that the Convention has complied with the Enabling Act, and that he be respectfully requested to take such steps as are provided by law, to comply with said act."

Mr. FOSTER. I would suggest that the resolution be amended by striking out the words "that this Convention has complied "with the Enabling Act" and inserting in lieu thereof the words "that this Convention "has decided upon the immediate admission "of the proposed State into the Union, ac- "cording to the conditions of the Enabling Act."

Mr. STANNARD. I have but one word to say. This resolution calls on the Secretary of the Convention to notify the Marshal of the United States for the Territory. Now, according to the terms of the Enabling Act, the Marshal of the Territory is to take the census according to the forms and regulations prescribed by the Secretary of the Interior, and I will guaranty to every member of the Convention, that if the Marshal of this Territory is informed of only just what is contained in that resolution, he might pocket it,

and carry it for two years without censure. The only proper course is for the President to procure a copy of the resolution attested by the Secretary, and transmit it immediately to the Secretary of the Interior. This Convention has no control over the Marshal. He acts under the Secretary of the Interior.—For one, I should very much object to having anything of this kind go on the Journal. It would appear to the detriment of the members of this Convention. I think we had better pursue the course I have indicated. It is the only correct one.

Mr. FOSTER. I do not know but the gentleman is correct. I have just prepared an amendment to meet his suggestion, that the President procure a copy of the resolution which the Convention has passed, and transmit it to the Secretary of the Interior. I think, too, that it will be well for the Secretary of the Convention to notify the Marshal for the Territory, who is to take the census. I move this as a substitute for the resolution:

"*Resolved*, That the President of this Convention procure a copy of the resolution affirming the wishes of the people of the proposed State to be admitted into the Union as a sovereign State, properly attested by the Secretary, and transmit the same forthwith to the Secretary of the Interior; and that the Sec'y of the Convention be requested to notify the U. S. Marshal for this district, that this Convention has decided in favor of the immediate admission of the State of Minnesota into the Union, and that he be requested to take such steps as are provided by law to comply with said act."

The amendment was adopted, and the resolution as amended was then passed.

The Convention then took a recess until to-morrow morning at 9 o'clock.

SECOND DAY.

TUESDAY, JULY 14, 1857.

The Convention re-assembled at 9 oclock, A. M.

Mr. WM. H. MILLS presented his credentials as a delegate from Olmsted County; which were referred to the committee on Credentials.

The committee subsequently reported that the credentials were regular and Mr. MILLS entitled to a seat. Mr. MILLS was thereupon qualified by taking the usual oath of office, and his credentials ordered to be placed on the Journal.

STANDING COMMITTEES.

Mr. COGGSWELL offered a resolution in reference to raising certain standing committees on the different subjects proposed to be embraced in the Constitution; which was referred to a select committee, consisting of Messrs. COGGSWELL, COLBURN, CLEGHORN, NORTH, ROBBINS, and ESCHLIE.

CONTESTED SEAT.

Mr. MORGAN presented the petition of CHARLES B. SHELDON, claiming the right of being admitted to a seat in the Convention as the delegate duly elected from Hennepin County in place of R. P. RUSSELL; which was referred to a select committee, consisting of Messrs. MORGAN, SMITH, and COGGSWELL.

RULES.

Mr. WILSON from the select committee on Rules, reported a code of rules for the government of the Convention; which after consideration and amendment were adopted.

Pending the consideration of the report of the committee on Rules, Mr. FOSTER moved that, as the sergeant-at-arms was absent, WM. H. SHELLY be appointed sergeant-at-arms *pro tempore*.

The motion was agreed to, and thereupon Mr. SHELLY was duly qualified by taking the oath of office.

On motion, the sergeant-at-arms, was directed to select such assistants as he might deem necessary to assist him in the discharge of his duties.

The PRESIDENT. The chair would take this opportunity to remark that if the delegates who are legally entitled to seats in this Convention were all present, and the editors and reporters who have been admitted within the bar were all present, all the seats would be occupied, and as it is expected as a matter of course, that those delegates will at some time take their seats, it is the order of the President that the sergeant-at-arms and his assistants permit no one to enter within the bar of the hall except members or those who have credentials to present in order to become members of the Convention, and the reporters and editors who have been already admitted. It is not the intention of the President in giving this order to debar any one who claims a seat in this Convention, but to admit

all such that they may present their credentials, but it is the intention to keep from within the bar outsiders who have no right inside of the bar. To do so is a matter of convenience and necessity, from the fact that the room is small and hardly sufficient to accommodate the members who are entitled to seats within the bar.

Mr. MANTOR submitted the following resolution which was considered, and adopted.

"*Resolved*, That two hundred copies of the Rules governing this Convention be printed in pamphlet form for the use of the members, with the names of the members, their post office address, town county and council districts, together with the names of the standing committees."

[The proceedings were here interrupted by the appearance of Mr. C. L. CHASE at the door, who, as Secretary of the Territory, demanded the hall for the use of the Constitutional Convention.

The PRESIDENT replied that that body was now in session and in possession of the Hall.

Mr. CHASE. Then you will not give up the Hall?

The PRESIDENT. Certainly not.

Mr. CHASE then retired.]

COMMITTEE ON REPORTING.

On motion of Mr. NORTH the President appointed a committee of three to employ reporters to report the debates of the Convention as follows: Messrs. NORTH, CEDERSTAM, and WATSON.

Mr. MORGAN, from the Committee on the petition of CHARLES B. SHELDON to be admitted as delegate to a seat on this floor, submitted a report recommending that the prayer of the petition be granted and Mr. SHELDON be admitted as a delegate.

The report was read.

Mr. GALBRAITH. I have but a word to say upon this matter. I have little doubt in regard to the facts. I have myself received one of these affidavits signed by one of the judges of election, which was made out by myself, and I believe them every way worthy our confidence.

[A communication was here received from Rev. E. D. NEILL, Chaplain elect, which was laid on the table.]

Mr. NORTH. I desire to know whether this report states that the votes rejected by the judges of election designated whether they were for representative district, or delegate at large?

Mr. MORGAN. It does, and we have given copies of the votes themselves.

Mr. FOSTER. I move that the resolution reported by the Committee be adopted.

The resolution was read as follows:

"*Resolved*, That CHARLES B. SHELDON is entitled to a seat in this Convention from the 11th district, and as such should be admitted upon the proper application being made.

Mr. STANNARD. I would inquire if Mr. RUSSELL, who, I understand, received the certificate of election, is present? I am not in favor of deciding this case without giving him an opportunity of being heard.

Mr. GALBRAITH. These affidavits I know, and I believe them, but they are *ex-parte* affidavits, and are only sufficient to open the contest. I believe that Mr. SHELDON is entitled to a seat in this body. I have no doubt as to the equity and legality of his election, but there is another person I understand, claiming a seat here by virtue of a certificate. Now, sir, I am willing, and I think this Convention is willing, that every member having a certificate shall come in here, take his seat, and be treated fairly and honorably. Let him have his seat on fair honorable and equitable terms. No member of this Convention has ever intimated that any man who comes here duly elected, with the sign and seal of the people upon his forhead, shall be rejected. Rather than reject any man who was fairly and honorably elected, I am satisfied every man here would leave this hall. Whether he be in the majority or minority it matters not. We wish no fictitious majority. We have here now, I believe, fifty-seven members with legal certificates, under the sign and seal of the proper election officers, whose seats can only be contested by legal and proper means. Other gentlemen who have the same kind of certificates can come and present them, and there is no man here who would reject them. If a certain set of men professing a certain set of principles, find themselves in the majority, let that majority rule, whether it be republican or democratic. Let no fictitious majority be created. Let the people's voice come up

here and be heard. We wish for nothing but what is right, but we ask what is right.

Mr. SHELDON comes here and asks for a seat in this Convention. He has no certificate, but he presents evidence that he is a legally elected delegate. I believe that evidence, every word of it. But it is *exparte* evidence, and as such, is entitled to no weight for the present, except to admit him to contest his seat. I say, therefore, that for the present we ought not to admit him to a seat in this Convention. There has been, it is said, no investigation upon the part of the gentleman holding the certificate, but he should have the opportunity of being heard here. I do not wish to be factious in this matter, but it seems to me it is the duty of the Convention not to act hastily.

Mr. ALDRICH. I wish to state to the Convention that Mr. RUSSELL is a friend and neighbor of mine, and that he told me on Saturday last, his certificate was made out by the proper authorities, but he had declined to receive it for the reason that he had not received a majority of the votes cast, and was not fairly elected. Mr. SHELDON has presented a certain petition here and has filed certain papers. There is nothing unfair in that, but in view of the circumstances, I think it is due to Mr. RUSSELL that he should have an opportunity of establishing his right to a seat here if he wishes so to do. I move, therefore, that the report be recommitted to the committee with instructions to notify Mr. RUSSELL immediately that his seat is contested, and report as soon as practicable.

Mr. NORTH. I want to say that I do not fully understand the course which it is proposed to pursue here. I am as far from wishing to hasten a measure of this kind as any gentleman present, but I look upon the matter in this light: We are not supposed to know what is going on outside of this hall. We are not supposed to know that any gentleman has, or claims to have, a certificate of election to this body, until he comes and presents it. How is this Convention to know that Mr. RUSSELL has any claims to a seat here until he comes and presents them? Common fame, common report says that he has, and I have no doubt that if we go into an investigation of the matter, we shall find that Mr. RUSSELL was a candidate, and was offered a certificate of election; but have we any official information upon which we can properly base such action? If so, are there not other cases here which demand like action? I say again, if Mr. RUSSELL does not ask a hearing before this Convention; if he does not come here and present his certificate or claim a seat here; is it incumbent on this Convention to run after him? I know Mr. RUSRELL well; I believe him to be a highly honorable man, and I have no doubt that under the circumstances, he does not claim a seat as a member of the Convention. As I understand it, there is no question but that Mr. SHELDON had, strictly, legally and technically, a majority of the votes cast. That evidence is before us. We have heard that Mr. RUSSELL does not claim a seat here; that he declines to receive a certificate; and I ask then if it is necessary, on the part of the Convention, to consult Mr. RUSSELL on the subject?

Mr. HAYDEN. I think the testimony before us is sufficient to warrant the action which it is proposed to take. The fact that Mr. SHELDON has no certificate is evidence in itself that some other person has. And as the evidence before us is purely *exparte*, I think it much the best and most judicious course to refer the report back as has been proposed.

Mr. FOSTER. While I have no doubt that Mr. SHELDON, the petitioner, in this case, is entitled to a seat here — while I have no doubt that he has received too, a majority of the votes cast, and that those votes themselves stated on their face whether they were for Council or Representative Delegate, as is certified to by the Judges of Election, and that the failure so to specify in the returns was purely a clerical error, yet, as has been said, the very fact that he comes here without a certificate is of itself evidence that some one else has such certificate. Now, sir, while we might go on, and perhaps it would be just and right to do so, and on the information we have that Mr. SHELDON is legally and fairly entitled to his seat, close up the case at once and give it to him without further delay; yet I prefer to err in the opposite direction. I prefer to give Mr. RUSSELL the fairest possible chance, so that he could not say we took advantage of his absence to prejudge his case. I hope therefore, the motion of the gentleman from Hennepin [Mr. ALDRICH] will prevail.

We are here, so to speak, in a peculiar situation. Composing as we do, a large majority of the delegates elected in Minnesota to this Constitutional Convention; yet we know that a minority portion of those also elected at the same time to this body, have seen fit not to come here, or if they did come they went out as suddenly as they came in. They disappeared like a meteor shot across the sky of as little substance, shedding as little light on their erratic path.

Those who hear me are well aware of the difficuties which from the start encumbered the preliminary organization of this Convention. The Enabling Act was entirely silent as to the *hour* when the Convention should meet, and the Legislature having also neglected to name the hour, we were at a loss what to do. Legally, the moment Sunday went out and Monday came in, the Convention, or even a minority of its members, could meet at the Capitol, and make a preliminary organization. From the threats in the democratic presses prior to our meeting here, from the bravado of democratic leaders since the arrival of most of the members, the Republican portion of this body had good reason to believe that there were desperate men enough amongst the democratic minority, to meet here at midnight, to organize here at midnight, and to adjourn from time to time until they obtained a quorum, and to claim, on account of such midnight organization, because it was the *first* organization on the appointed day for meeting, a precedence over any other organization that might be afterwards set up in broad day-light by the Republican majority; and though I do not say that such a course would *primarily* be participated in by all of the members of that party, yet I know enough of those timid souls who might not, to induce me to believe that after the deed was committed, they would "let it slide," and profit by the wrong which their bolder but less honorable colleagues had perpetrated. They would console themselves with the argument, that the thing was done, could not now be helped, and it was best to "acquiesce" in the proceeding, much as they disliked it! Thus warned of the intentions, of the peculiar proclivities of their Democratic brethren, the Republican members met together in caucus on Saturday evening, July 11th, to consult on the best means of overcoming the difficulty in regard to the uncertainty about the hour for the meeting of the Convention. They determined, in the first place, that they, the majority would not attempt to organize until after broad day-light on Monday morning, the 13th, being the day appointed by the Enabling Act. They next determined, that they would take precautions to prevent the Democratic minority from attempting to organize before that time, or during the darkness of early Monday morning, without the knowledge of the Republican members; and be ready, in case they did so attempt, to frustrate the scheme. As a means of precaution, they determined to meet in caucus in the Council chamber of the Capitol, at 12 o'clock, midnight, between Sunday and Monday morning; and there watch for and pray over our Democratic brethren. But for any unexpected contingency, such, among other things, as the Democrats evincing a willingness in some precise and reliable form, to pledge themselves not to meet until a specified hour, an Executive committee was appointed by the Republican caucus with discretionary powers; and the Republican caucus adjourned to meet in the Council chamber at 12 o'clock, A. M., on Monday morning, as I have before stated. Nothing occurred until Sunday evening, when one of the Executive committee being at the Fuller House where others of that committee boarded, accidentally met there Ex-Governor GORMAN, and had a talk with him about the possibility of coming to an understanding with the Democratic members as to an hour of meeting. Governor GORMAN said the Democratic members were just about going into caucus in No. 15, and he would communicate with them on the subject. He did so, or appeared to do so, passing several times backwards and forwards between a portion of the Republican committee hastily gathered, (some from their beds,) and the Democratic caucus in No. 15 up stairs. The result of his perigrinations was, that the hour of meeting should be at 12 o'clock at noon, on Monday; and that a paper should be drawn up which the Republican committee should sign, on the one hand, and the members of the Democratic caucus, on the other, mutually pledging their sacred honors to organize at that hour and not before. By request, I drew up such a

paper, which Governor GORMAN took up into their caucus, to see if it was all right in form. He brought it down stairs, said it would do, and requested us to sign it first. All of the Executive committee present did so; and he took it up with him into their caucus; and, gentleman, that is the last we ever saw of it!—We waited a long time to see it come down with the signatures of the Democrats upon it, but we waited in vain. They knew a trick worth two of that. When they did finally adjourn their Sunday caucus, about 11 o'clock on Sunday night, and came down stairs in a body, Governor GORMAN handed the Republicans a resolution signed by the officers of the caucus, in which, in return for our positive pledge to meet at 12 o'clock the next day, they said they would "meet at the *usual* hour for the assembling of parliamentary bodies in the United States." Indignant at this unfair evasion, the Republican committee at once, on the spot, denounced this as a subterfuge; as not the understanding, and declared that they would not be bound by it. They demanded their written pledge back again; and *it was refused!* Now, what were the Republicans to do under these circumstances? To be spared the necessity of a long night vigil, in the Capitol, was the earnest desire of us all; but this dishonorable evasion, made it still more evident that the only course for us to pursue, was that of "eternal vigilance." It was plain that the Democrats were playing fast and loose with us—that they were in for all the chances. That having tricked us into pledging a certain hour for meeting they kept themselves ready to take advantage of any circumstances that might arise by the loose and doubtless well considered phrase of the "*usual hour!*" Now, sir, that "usual hour" means anything, everything, or nothing, just as you happen to want. It may mean 9 o'clock, which is the hour our rules fix for the daily sessions of this Convention; or it may mean 10 o'clock, the usual hour for the meeting of the Territorial Legislature; or it may mean 12 o'clock, the usual hour at which Congress assembles.

Well sir, the Democrats having thus adopted a sliding scale, while the Republicans had offered to agree to meet at precisely 12 o'clock, M., on Monday, the latter had but one resource; for, sir, sent here by an intelligent, earnest and fearless constituency, the Republican Delegates were not the men to be coaxed, or driven, or humbugged, from their position. It was their intention, as it was their instructions from their people, to stand by their rights, to stand by them in a legal manner, but to stand by them with all the means which God and nature, and the constitution of their country had given them.

I repeat, sir, under the circumstances we had but one course to pursue, and that we took. Pursuant to our adjournment on Saturday evening, we met in caucus in the Council Chamber of this Capitol as soon as possible after the clock had struck twelve on Sunday night; and we continued there all night, not to do anything, although we had a majority of all the members elected present; but to prevent any undue advantage being taken of us by the other side. Let no man say we were not justified in apprehending that the Democratic delegates would attempt to take such advantage. Why, then, it may be asked, did they not come forward and meet our proposition for twelve o'clock on Monday noon as the hour for organization, in a manly, straight-forward way? Why the contemptible evasion of the "*usual* hour?" But in addition to these signs of a disposition to take advantage, it is a matter of history that the same party in the State of Ohio, under the lead of the present Democratic Governor of this Territory, once met in legislative session in Columbus, at *midnight* of the day fixed for the meeting of the Legislature, and kept possession of the legislative hall day and night for two or three weeks, and all this to obtain political power and nullify an apportionment bill passed by a previous Legislature—and, sir, they *succeeded*. How did we know that that was not the "usual hour" meant by them—for this precedent showed it was an "usual hour" with the Democracy of Ohio, and as the party in this Territory had the same official leader, could we suppose Ohio midnight fashions would not be imposed on us here in Minnesota? Yes, sir, I repeat, we were justified in mistrusting them, and by apprehending in time their designs, frustrate and prevent them.

Well, sir, the Republican members continued in the Council Chamber until after daylight,—in fact until after the doors of the

Convention Hall were unlocked by the workmen, who, who under the employ of this Democratic Admistration, were arranging and furnishing it for the reception of the Delegates to the Constitutional Convention. It was not until the doors were thus unlocked, that a single member of any party took a seat in this Hall. And how, sir, did the Republican members enter it then? Why, sir, they dropped in singly, after going for their breakfast and returning; entered it in broad day-light, not organized, not in a body, not rushing in like a mob, but calmly, quietly, and without noise or confusion. They selected their seats, and some of the Democratic members came in and selected their seats also; and all was going on peaceably and quietly. Between 9 and 10 o'clock, the Democratic delegates met in caucus in the office of the Secretary of State down stairs in this Capitol. Whether the more respectable amongst them were ashamed of the evasion of their caucus the evening before—or whether to blind the Republicans to their designs and prevent them from proceeding to organize the Convention, before they were ready to make the grand rush that they subsequently did, this caucus adopted and communicated to the Republican members the following resolution.

"JULY 13, 1857.

"*Resolved*, That the Democratic members of the Constitutional Convention in caucus, do hereby *confirm the position* of the Democratic members *last evening*, and will concur in the proposition to meet at 12 o'clock, M. of this day, the usual hour for the assemblage of parliamentary bodies in the United States.

M. SHERBURNE, Chairman.

C. L. CHASE, Secretary."

SIR: It will be observed, that this resolution alludes to and establishes the fact, attempted to be disputed, that the "Democratic members" *were* in caucus *on the Sunday* evening previous; and it tries to relieve them from the evasive "position" they had taken by interpreting the usual hour to mean 12 o'clock! and at this hour they now pledged themselves to meet. I want to call attention to another fact, which still more strongly shows that there *was* a "caucus of the Democratic members" the previous Sunday evening. This is, that the caucus which adopted the resolution just read, appears to have been only the adjourned caucus from the night before; for the same persons were President and Secretary of both, as will be seen by this copy of their communication to the Republican members at the Fuller House on Sunday evening, when they played the trick about the "*usual* hour." It is, sir, as follows:

"GENTLEMEN:—The Democratic members of the Constitutional Convention now present will be governed as to time and place of meeting by the usual rules governing the assemblage of parliamentary bodies in the United States.

M. SHERBURNE.

C. L. CHASE,

W. A. GORMAN.

To Messrs. BALCOMBE and others."

What followed, sir, the communication of the resolution by them on Monday morning? The first thing we witnessed, sir, was that a person, acting under Democratic orders, came into this Hall with a small hand ladder, mounted up to the Hall Clock facing your desk, sir, and went through all the motions of taking it apart, regulating it, and then setting it agoing according to their own time. Not a Republican hand, sir, touched that clock; and we sat here, foolishly trusting in the good faith of our opponents, that at 12 o'clock M. by the time piece regulated by themselves, they would meet with us here and proceed in a proper manner to organize the Constitutional Convention. How vilely they broke their faith—how dishonestly they violated their honor—you all know. All will bear me witness, that at 17 minutes *before* the time fixed by themselves,—17 minutes before, by the Hall Clock—they rushed in here in a body—like a mob—some 38 or 40 of them—with a man at the head of the name of CHASE, who claimed to unite in his one person, the various functions of Secretary of the Territory and Acting Governor, and making some pretence also to a seat in the Convention. He, CHASE, by evident pre-arrangement, sprang unexpectedly into the Speaker's desk, and commenced calling the Convention to order. Saying "*As Secretary of the Territory* of Minnesota, I call"—But before he could get his words out even this far; Mr. J. W. NORTH, a duly elected and certified delegate, who had previously been requested in writing by a majority of all the members elect to the Convention, to call the body to order, was by his side, had called the Convention to order, had nominated THOMAS J. GALBRAITH as temporary

Chairman, and had put the motion before Mr. CHASE could call his mob to order. As soon as he had done so, WILLIS A. GORMAN at once made a motion to adjourn.

The motion was put by Mr. CHASE, and declared by him carried. And thus a body, as they called themselves, without being organized, without a Secretary or record of proceedings, adjourned and rushed out of the room as they had rushed in. We, a majority of the Convention remained, and have proceeded ever since upon our course, and are ready at all times to receive members who come with credentials, no matter to what party they belong, and give them seats in this body. We have endeavored to act, and have acted fairly throughout; and as I said before, we have nothing to reproach ourselves with, and nothing to take back.

Mr. ALDRICH. I wish to state for the information of the gentleman from Rice county, and others, that there is evidence here that a certificate of election is made out for Mr. RUSSELL. I have seen it myself, and I am opposed to acting decidedly in this case at this time, for the reason that we have no means of knowing but that Mr. RUSSELL may make his appearance here and ask to take his seat. We have no means of knowing but that he may be absent on account of sickness. I will also state that there is a neighbor of Mr. Russell now here, who will take to him any communication from this Convention this afternoon. I not only want the Convention to do no wrong, but to avoid even the appearance of wrong.

The question was then taken, and the motion was agreed to.

So the report was referred back to the committee.

Mr. NORTH. I suppose I am not strictly in order in speaking when there is no question before the Convention, and I will not do so if any gentleman has objection.

The PRESIDENT. The gentleman will proceed, as no objection is made.

Mr. NORTH. There have been a few remarks made in Convention which I think quite likely to excite some feeling upon the part of people outside of the Convention, and perhaps on the part of some within the Convention. Such remarks, it seems to me, are not desirable, are injudicious and inexpedient. We are all aware of the circumstances under which we meet; that there is feeling in others as well as in ourselves. When men view the same thing from different points of observation, it is very common for them to perceive the same points in different lights; to judge of it differently, and at the same time honestly. The human mind is capable, I had almost said of any absurdity, and what may seem to us absurd, may seem to others not so absurd, and it becomes us, in exciting times, to be as forbearing in our judgment, and in our language as possible. I regret to have heard any remarks in this Convention derogatory to the motives, feelings, or views of those outside of the Convention, or of those who differ with us in regard to the organization of the Convention. Though they may choose to take a course differing from ours, I believe every man here is firm and decided in the opinion that our course is the proper one, the regular one, and the right one. Let us be satisfied with that and go straight forward in the discharge of our duties, without turning round to charge wrong upon those who differ with us. I hope we shall be so inclined to do, and I believe that such is the feeling of the Convention generally; and our good judgment will teach us the propriety of acting upon that feeling.

A word in regard to St. Paul: Some remarks have been dropped in reference to her which I regretted to hear. We all have our views in regard to different places in our Territory. We may have our prejudices, but we have assembled in this Convention for a more dignified purpose than that of passing encomiums or censure upon the people of any place. St. Paul like other places, has its good and its bad men. The good are not responsible for the bad, and some whom we may call bad, may not be as bad as we imagine. It becomes us to be forbearing in our censures of any, and as charitable as we can be to all. Things have transpired in St. Paul which deserve encomium, and if she were a theme of discussion in this Convention, much might be said of which she might be proud. But St. Paul is not on trial, and it does not become us to censure her. There are noble men in this city, as I have had occasion to know within the last six years, and I feel pained when I hear them censured. I know the remarks to

which I allude were not intended to fall upon the good men of this city, but upon another class, whose deeds even the people of St. Paul regard with disapprobation. But such remarks cause unpleasant feelings, and we should beware how we digress into any remarks of that nature. We should conduct ourselves with the proprieties of the place and the object for which we are assembled.

I hope that nothing I have said will be construed into a censure of any remarks which have been made. My remarks are not so intended, but simply as a suggestion for the future.

Mr. ALDRICH. With the consent of the Convention I wish to say that I perfectly agree with the remarks of the gentleman who has just taken his seat. They are my sentiments, but better expressed than I should have expressed them. I regretted to hear some remarks which have been made here.—My views of our proper course are that we should go straight forward, calmly, dignifiedly, and firmly, as though nothing had happened; that we should treat every man with courtesy, do our duties as we have sworn to perform them, drawing in no side issues, but attending strictly to the business for which we were sent here.

Mr. WILSON. I regret that this discussion has commenced at this time, as every individual must see that the remarks were probably intended as a censure, or something equivalent, upon something said by myself. I have made no remarks which I should take back under any circumstances after the most mature thought. As to the people of St. Paul, I have nothing to say against them individually. As far as I know, they are like other people, good and bad. The remarks I made were applicable to certain influences which they, as an aggregate body, would have on our Territory under a certain division. In a place where we are not at liberty to discuss this matter, I think it wrong to bring it up, but I am ready to sustain my position in any proper place, and many people of St. Paul say *amen*.

Mr. HUDSON. I wish merely to say that I endorse what has been said by Messrs. NORTH and ALDRICH. I believe it is always better to pour oil upon the troubled waters; to say nothing against any man or any place, but to attend strictly to our business, build up our own cause and the interests of our country.

Mr. GALBRAITH. Had we not better proceed to business. What, I would ask, are gentlemen going to pour oil upon? If what has been said by me, fits any one, let him put it on. I don't know as I have said anything objectionable. If I have said anything harsh to the members of this Convention, of course, I am sorry for it. If I have said anything offensive to people outside, let them come and talk to me about it.

Mr. NORTH. I hope to have my last remark taken in its full force and meaning. I did not intend a single remark I made, as a censure, or as fault finding, but simply as a suggestion to be thought of in the future.

CALL OF THE HOUSE.

Mr. GALBRAITH, (at one o'clock) moved that there be a call of the House.

The motion was agreed to; a call of the House was had, the absentees noted, and the sergeant-at-arms directed to close the doors and bring in the absentees.

The doors were closed until 4 o'clock, P. M., when the doors being opened, on motion all further proceedings in the call were dispensed with.

The Convention then took a recess until tomorrow at 10 o'clock, A. M.

THIRD DAY.

WEDNESDAY, July 15, 1857.

The Convention reassembled at 9 o'clock, A. M. and a quorum being present, the journals of Monday and Tuesday were read, coraected and approved.

MESSENGER TO THE CONVENTION.

The PRESIDENT laid before the Convention a communication from B. L. SELLERS, resigning the office of Messenger to the Convention.

The resignation was accepted.

Mr. WILSON moved that W. H. SHELLEY, the present Sergeant-at-Arms, *pro tempore*, be elected to supply the vacancy.

Mr. COGGSWELL. I move to amend the motion so as to provide for the election of two Messengers.

Mr. FOSTER. I would suggest that it would be better not to exceed the usual and customary officers of the legislative bodies of this Territory, which are a Sergeant-at-Arms, Messenger, Door-keeper and Fireman. The object of the gentlemen can be as well accomplished by the election of a Door-keeper. That was omitted yesterday. The precedent of legislative bodies will be looked to, to ascertain if our officers are necessary.

Mr. NORTH. I do not see the necessity of having two Messengers. We should be as economical as possible at the commencement of our organization.

Mr. COGGSWELL. I do not undertake to say what has been customary in this Territory in regard to the election of Messengers, but if I understand the customs of Conventions of this character in other States, it has been to have two Messengers, to say the least. My recollection is that they had two in the Wisconsin, three in the Michigan, and I think seven or eight in the New Hampshire Convention. My judgment is that the time is not far distant when we shall want the services of at least two Messengers. Our business will, much of it, be transacted by Committees, and there will be considerable running from this hall to the Committee rooms and back; and it seems to me we should have two of these officers, one upon each side of the Hall so that they may be at hand for the purpose, and also for carrying to the Clerk's desk such resolutions and papers as may be presented by the members.

As to the matter of economy, I am as much in favor of it as any other man, but we should not carry our economy to the extent of depriving ourselves of services which we absolutely need.

Mr. DAVIS. I move to amend by striking out the name of Mr. SHELLY, so that the motion shall simply provide that we now proceed to the election of a Messenger.

Mr. WILSON. In making my motion, I did not say anything about the gentleman whose name I proposed, nor shall I do so now. I content myself by referring the Convention to the gentleman as our present Sergeant-at-Arms, *pro tempore*. He has done us good service thus far, and is just the man we want, and I trust we shall not spend time in trying to choose a better man.

Mr. COGGSWELL. I have no objection to Mr. SHELLEY. So far as I know anything about the manner in which he has discharged his duties, he has my commendation; but there are other individuals equally worthy and deserving, whose names should be proposed to the Convention. From such names we can select one. I shall be satisfied with any of them.

Mr. DAVIS. To Mr. SHELLEY I have no objection; on the contrary, from what I have seen of him, I like him both as a man and a Republican. I think we can place the fullest reliance upon him, but I think it nothing but justice and fareness to allow the Convention to propose other names, if they wish. There are other individuals, as my friend Coggswell remarked, equally as competent, and equally as good Republicans, whose names I should like to see brought before the Convention.

The amendment was agreed to.

The original resolution was adopted, and W. H. SHELLY was declared duly elected Messenger to the Convention.

REPORT OF COMMITTEE ON STANDING COMMITTES.

Mr. COLBURN from the select committee to which was referred the subject of designating the standing committees of this body, made the following report:

"The select committee to whom was referred the resolution of Mr. COGSWELL, have attended to that duty and would recommend that standing committees be appointed to whom shall be referred all matters therein contained as follows:

1st. A committee of five—*On the Preamble and Bill of Rights.*

2d. A committee of seven—*On the Legislative Department.*

3d. A committee of three—*On the Executive Department.*

4th. A committee of five—*On State Officers other than Executive.*

5th. A committee of seven—*On the Judiciary Department.*

6th. A committee of five—*On the Organization and Government of Cities and Villages.*

7th. A committee of five—*On County and Township Organizations and Officers.*

8th. A committee of five—*On the Elective Franchise.*

9th. A committee of five—*On Finances, Taxation, and Public Debt.*

10th. A committee of five—*On Educational Institutions and Interests.*

11th. A committee of seven—*On Banks and Corporations other than Municipal.*

12th. A committee of three—*On the Militia.*

13th. A committee of five—*On Exemptions of Real and Personal Estate, and the Rights of Married Women.*

14th. A committee of five—*On the Punishment of Crimes.*

15th. A committee of five—*On the Amendment and Revision of the Constitution.*

16th. A committee of five—*On Internal Improvements.*

17th. A committee of three—*On Impeachment and Removal from Office.*

18th. A committee of five—*On Public Property and Expenditures.*

19th. A committee of five—*On Salaries.*

20th. A committee of five—*On Miscellaneous Business.*

21st. A committee of five—*On Schedule.*

22d. A committee of five—*On the Arrangement and Phraseology of the Constitution.*"

The report of the committee was accepted, and the committee discharged.

The question being on the adoption of the report of the committee.

Mr. MORGAN called for a separate vote on each committee, and the question being put, the recommendation as to committees Nos. 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21 and 22 was agreed to without debate.

On the reading of the 2d committee—a committee of seven on the Legislative Department.

Mr. HAYDEN said—There are so many committees, it seems to me that five members are enough on any one committee. I therefore move to amend by striking out "7" and inserting "5,"

Mr. COLBURN. That matter was considered by the select committee. This is an important committee, as are also the committees on the Judiciary and on the Banking Department, and we thought it desirable on those committees to have as much counsel as we could. But if seven cannot attend, five would be a quorum to do business.

Mr. HAYDEN. My idea was, that as the committees are so numerous it would not be convenient to have more than five members upon a committee, as many of the committees would probably be in session at the same time. A committee consisting of five members, could act if only three were present, and as a general thing three can expedite business more rapidly than a larger number. In my opinion, five is a sufficient number on those committees which should be strong, and three on the others.

Mr. PERKINS. That is an important committee and it is important to bring to bear upon it all the wisdom possible to apply to it. This committee especially, and the one on the Judiciary, should consist of seven members, and their object should be not so much to expedite and get through business, as to deliberate calmly and seriously upon the subjects brought before them.

The amendment was not agreed to, and the recommendation of the select committee was adopted.

The report as to the 13th committee was read—a committee of five on Exemption of Real and Personal Estate, and the Rights of Married Women.

Mr. MORGAN said: I move to strike out that committee. The subjects contemplated by that committee have heretofore been subjects of legislation, and not considered proper subjects to incorporate into a constitution. They are matters which constantly change with public opinion. What might be deemed a sufficient exemption of real estate at this time, might not be at another time.

As to the rights of married women, I have never known them introduced into any Constitution. They are strictly subjects of legislation.

Mr. FOSTER. Although they are matters of legislation, rather than of constitutional provisions, yet I think a committee upon that subject should be appointed. No doubt the subject will be mooted and proposition made in reference thereto. At all events, we should have a committee to which they could be referred, and then it lies in their judgment whether to report them back or not. Let them put the matter in shape, if the Convention is to act upon it.

Mr. MORGAN. My principal object is not to lessen the number of committees. It is evident that some members must be placed upon two or three committees.

The motion was not agreed to.

The recommendation of the special committee was then adopted.

The question was then taken on the adoption of the report of the committee as a whole, and it was decided in the affirmative.

COMMITTEE ON BOUNDARY OF STATE, &C.

Mr. SECOMBE moved that an additional standing committee of five on the name and boundaries of the State be appointed.

Mr. COLBURN. The select committee had that subject under consideration, but came to the conclusion that the question was substantially settled by the vote of the Convention on Monday last. If we have accepted the Enabling Act, we have also accepted the boundaries specified therein. If that vote accepted the Enabling Act, as most believe it did, and as the committee think, it obviates the necessity of such a committee as this.

Mr. SECOMBE. I agree with the Chairman of the committee who reported the list of committees, as to the result of the resolution passed the other day, but that does not obviate the necessity of having this committee appointed to draft an article to be inserted in the Constitution, so that the Constitution itself shall contain the name and designate the boundaries of the State. It is not my intention or desire to have any change made in the name and boundaries as contained in the Enabling Act. It should be apparent to any one taking up our Constitution, what our name and boundaries are. It has been customary in similar Conventions, to have such a committee.

Mr. GALBRAITH. That matter having been substantially settled, as admitted by the gentleman from St. Anthony, it properly comes under the supervision of the committee on Arrangement and Phraseology, who in the course of their duties will arrange and place it in the Constitution.

Mr. HUDSON. I think the gentleman who made the motion has a correct idea of the matter. The committee on Arrangements and Phraseology have nothing to arrange but what is sent to them. I admit that we have settled the matter, but who knows the fact except members of the Convention. The Constitution should itself give the name and boundaries of the State.

Mr. COGGSWELL. I shall vote for the resolution for the reason that I do not believe that the question of boundary is settled. As one member of the Select Committee, I am not aware that any thing was said in regard to the formation of a Committee of this kind. Had there been, I should have been in favor of it. In the Wisconsin Constitutional Convention they had a committee of this character. That Convention was held under an Enabling Act not substantially differing from ours. For the reason that I do not consider this question settled, and that it must necessarily come up hereafter, I am in favor of this committee. I know that some members here, living in certain localities, feel inclined for some reason to express themselves in favor of the permanent settlement of this question. For my part the idea that it is permanently settled by the adoption of the resolution the other day, seems to me ridiculous. I shall vote in favor of the committee.

Mr. FOSTER. The subject will come up, and there is force in the remark of the gentleman from Goodhue [Mr. HUDSON] that the committee on Arrangement and Phraseology will hardly have the subject before them unless it comes in a different shape from that in which it now is. As one coming from a locality which believes that the action taken the other day was correct, I am willing to trust the committee and the Convention on that subject.

Mr. NORTH. I am perfectly willing that any amount of investigation and discussion if necessary, should be had upon the question of the boundary, but it seems to me that we have settled the question once, after considerable discussion and deliberation. It seemed decidedly agreed upon that we should accept the proposition of Congress in accordance with the Enabling Act, which settles the boundary question definitely. It strikes me that to appoint a committee on boundaries now, is inconsistent. I have very little idea that after the most lengthy discussion and most mature deliberation we shall change the position of that matter for I believe that a majority of the people of the Territory wish it to remain as it is. Such is the sense of the Convention deliberately expressed. But the question ought to be settled at once if it is not already settled, and if necessary, settled by a vote upon this proposition.

Mr. SECOMBE. I agree that we have definitely settled the name and boundaries of the State, but we did it for a particular purpose, and in compliance with a specific portion of the Enabling Act, which was a prerequisite to our going on to transact busi-

ness. That action was preliminary, and which we were bound to take before we could proceed to form a Constitution. Having taken that action, I agree with the gentleman as to the result of it, but at the same time I insist that it is desirable and necessary that there should be a committee to prepare an article to be inserted in the Constitution setting forth the name and boundaries. The Convention of Wisconsin, acting under an Enabling Act similar to ours in every material respect, had such a committee, which prepared for the Constitution a distinct article setting forth the name and boundaries, as they were proposed by the Enabling Act.—Who is to do the work of preparing such an article? It has been suggested that the committee on Arrangement and Phraseology should do it. They have not the power to originate matter, but only to insert into the Constitution the result of our action here.—The language of the resolution adopted the other day is to this effect: "Resolved, that "it is the wish of the people of Minnesota "to come into the Union as a State." That would make a poor appearance in the Constitution, and it seems reasonable that we should have a committee for the purpose which I have stated, and then when any member proposes, or any committee reports a different boundary from that which I think we have adopted in fact, there will be time, ample time for discussing it, and it will do no harm.

Mr. DAVIS. I do not believe that the question of boundary was definitely settled by the resolution passed on Monday. Only the question of our desire to come into the Union as a State, was settled. I look upon this matter merely as a proposition of Congress to the Territory of Minnesota. A mere proposition saying "if *you* will do so and so, '*we* will do so and so." It does not follow as a matter of course that we must accept all the other propositions. It does not follow that we must accept the whole or none. We may wish to accept to a certain extent, but desire to differ from those propositions in other respects which are not at all essential to our acting under the act. They are bound if we accept the propositions entire; they are bound only in good faith however. Though we do adopt a different line, Congress I think will not dare to refuse our admission. I think if this whole matter were thoroughly understood by the people of the whole State, they would desire a different boundary. Therefore I am in favor of this committee. I shall vote for it.

Mr. WILSON. I do not think this the time to argue this question, nor do I think it necessary. This committee is necessary whether the boundary be or be not settled. By the rule which we have adopted each article as it is adopted, is referred to the committhe on Arrangement of Phraseology. That was the object for which the committee was appointed, and it has no jurisdiction beyond what is referred to it by the Convention. We must have a committee upon the name and boundaries of the State. The question will be discussed just as much whether we have a committee or not. I think the object will be attained more directly by the appointment of such a committee.

Mr. MANTOR. I find by looking at the act enabling the State of Wisconsin to form a State Constitution, that it is very similar to the one under which we are acting. I find in the reports of that Convention that there was a committee similar to the one that is now proposed to be appointed. That Committee took the subject of boundaries into consideration, and reported an article in the shape of an ordinance accepting the proposed boundaries as laid down in the enabling act of Congress. I see no reason why we should not adopt the resolution.

I do not know as I have made up my mind as to the actual boundaries of the incoming State. I do not know that when we are acting under an enabling act of Congress saying we may come in as a State within certain proposed limits, we may not run a line within those boundaries, but that we cannot step beyond those boundaries is indisputable. We certainly should have something in the Constitution which will show to the people what those boundaries are, without referring them back to the enabling act. For this reason I shall give my support to the resolution. The boundaries should be laid out and the land-marks understood, so that succeeding generations may know what our action is, without having to go back to the enabling act. That they may not have.

Mr. COLBURN. The only object I had was to prevent occupying our time unnecessarily by discussion, but as discussion has got to come, I hope the motion will prevail.

Mr. BATES. I consider that the boundaries were definitely settled the other day, and I cannot see that there is any question in regard to them.

Mr. COGGSWELL. If I actually believed that our action in the adoption of the resolution on Monday was a final settlement of the boundary question, I certainly would go against the resolution of the gentleman from St. Anthony. But I do not believe it. If I understand the motion, which is to appoint a committee upon the name and boundaries of the proposed State, it would suit my idea better if it were worded so as to read something like this—"that there should be a standing com-"mittee on the boundaries of the proposed "State," for the reason that I understand that Enabling Act does lay down, establish and mention the name of the proposed State. I understand that we have no choice so far as the name is concerned. The first section of the Enabling Act reads thus—"that the inhabi-"tants of that portion of the Territory of Min-"nesota which is embraced within the following "limits," naming them, shall have the power to do certain things. What are those things? That they shall have the power to form for themselves a constitution and state government by the name of the State of Minnesota, and to come into the Union on an equal footing with the original States. So that as to the name we have no power to make any alteration.

But that section says nothing about the permanent establishment of boundaries. It only gives the inhabitants who reside within certain limits the right to select certain individuals who shall meet here for the performance of certain duties. The resolution of Monday expressed nothing more than the wish of the people to be organized as a State —not a State with certain boundaries—not a State which should commence at a certain point, and run around in a certain manner, and come back to the point of starting. Now for the purpose of having a committee to investigate this question of boundary, so that the question may be met fairly, I am in favor of the appointment of this committee.

It seems to me unfair that those who happen to entertain different views from us, in regard to the effect of the resolution adopted on Monday, should shut the door upon us, and say "because *we* believe the question is "settled we will not place you in such a posi-"tion before the Convention that you can "express your views and sentiments."

My own locality or any individual sentiments do not require that I should take any particular stand in reference to the matter. I do not propose to pledge myself to vote for one particular line or another. My simple desire is that both sides may be heard, and heard through a committee. When the proper time comes I think I can introduce an array of authorities—authorities which are the actions of Conventions which have assembled under Enabling Acts similar to ours—to show that this question is not settled, and that this Convention has the right to pray that Congress will alter the proposed boundaries. Wisconsin made such a prayer, Iowa made such a prayer, and Michigan, and Missouri, and Illinois made such a prayer. My recollection is that those prayers were heard in some instances, though not heard or respected in others.

For these reasons I ask that the committee may be appointed to take the matter under consideration. If they believe that the question is settled, all they have to do is to make a report that, in their judgment, the Enabling Act has settled the matter, and that it is no longer a matter for debate or discussion in this Convention. If that shall be the opinion of the committee, so far as their duty is concerned, it will meet my approbation.

The question was then taken on the motion of Mr. SECOMBE, and it was agreed to.

On motion of Mr. COLBURN:

"*Ordered*, that a committee of three be appointed on Printing, and a committee of five on Supplies and Expenditures."

On motion of Mr. COLBURN:

"*Ordered*, that a committee of five be appointed to be called 'the committee on Elections and Credentials.'"

USE OF TERRITORIAL LIBRARY.

Mr. COGSWELL. I offer the following resolution:

"*Resolved*, That a special committee of three be appointed to ascertain if the members of this Convention can have access to the Territorial Library, and if so during what hours."

I have endeavored to obtain access to the Territorial library, and each time have found the door locked. I am not aware what the rules and regulations of the library are. When I left home I supposed that every member would have access to the books in that library, and for that reason neglected to bring books which I otherwise should have brought. I need the assistance of books to discharge my duties as a member of this Convention. I am not competent to originate a Constitution in all its parts without consulting books, containing the proceedings of other Conventions of other States; and also other works. For that reason I have offered the resolution.

The resolution was adopted and the Chair thereon appointed as such committee, Messrs. COGGSWELL, COOMBS, and HUDSON.

STATIONERY.

Mr. FOSTER offered the following resolution:

"*Resolved*, That the committee on Supplies and Expenditures are hereby instructed to make a contract for a supply of Stationery for the use of the members and officers of this Convention, that is to say, not to exceed in amount $5 to each member, and such amount as they may deem necessary for the use of the officers of the Convention."

The resolution was adopted.

PRINTING THE ENABLING ACT.

Mr. COGGSWELL. I submit the following resolution:

"*Resolved*, That two hundred copies of the late Act of Congress entitled "An Act to authorize the people of the Territory of Minnesota to form a Constitution and State Government preparatory to their admission into the Union on an equal footing with the original States," be printed for the use of the members of this Convention."

So far as my knowledge extends it appears to me that not one member in ten has a copy of what we denominate the Enabling Act, and in my judgment we do not understand its provisions as we ought.

Mr. SECOMBE. I move to amend the resolution by adding "also an act of the "Extra session of the Legislature of this "Territory in reference to the same subject matter of said act of Congress."

Mr. COGGSWELL. I accept the amendment.

The resolution as modified was then adopted.

And then on motion of Mr. NORTH, the Convention (at one o'clock) took a recess until three o'clock.

AFTERNOON SESSION.

The Convention re-assembled at three o'clock.

SUPPLY OF PAPERS TO MEMBERS.

MR. HARDING offered the following resolution:

"*Resolved*, That the publishers of the St. Paul *Daily Times*, the St. Paul *Advertiser*, and the *Daily Minnesotian* be requested to furnish to each of the members of this Convention, two copies of their several daily papers during the session of this Convention."

Mr. FOSTER. I would enquire why the "Pioneer" is not included? It is just now a very interesting paper, and I want to have it. But I think the better way would be to use general language, requesting the Editors of the city papers to furnish us each with two copies daily.

Mr. SECOMBE. If it is the intention of either of these papers to publish the journal of our proceedings, of course I desire to have the perusal of that paper. It seems to me that it would be better to have the Convention make an arrangement to have the official journal of the Convention published in one paper or more, so that when we get the papers we shall get some equivalent for what we pay. To be sure there is interesting matter in all the papers, and especially the one named by Dr. FOSTER, but my object would be to procure each morning in print, the journal of the day before.

Mr. PERKINS offered the following substitute:

"*Resolved*, That a select committee of three be appointed to negotiate with some one of the newspaper publishers in this city to publish an official report of the proceedings of this Convention, and furnish each member of the Convention daily with twelve printed copies of such report; to be charged to the contingent expenses of the Convention."

Mr. COGGSWELL. My present impression is that it would not be any thing unusual, or out of the order of proceedings of Conventions of this kind to order copies of such newspapers as may be printed at the Capitol. The language of the substitute seems to imply—for I did not distinctly hear it—that we should procure copies of such papers as

shall publish the official reports of this Convention. I do not understand what is intended by that word "official." I do not understand that any paper in St. Paul or out of it publishes an official report of our proceedings. The word "official" seems to carry upon its face a meaning something like "legal authority" in such connection. No authority has been delegated by this Convention to any publisher to publish anything in the nature of an official account of our proceedings. What may be done hereafter I don't pretend to say.

So far as I am concerned I do not care anything about any of these newspapers. That is, I am not in favor of appropriating Uncle Sam's money, or the money which perhaps will come out of the people of Minnesota, to pay for newspapers for us to read. If we want to read this or that paper let us pay for it out of our own pockets like men. I know of no authority vested in us as a Conventional body, either by the Enabling Act or any other law, to appropriate money for any such purpose. True Conventions have done such things before, but my impression is that they have done so under entirely different circumstances from those under which we are placed.

I move to lay the resolution and the substitute on the table.

The question was taken, and the motion was not agreed to.

Mr. FOSTER. When we are here assembled upon the people's business, and are surrounded with papers which are constantly criticising our doings, and some in particular pointing out our errors, and which everybody sees but ourselves, unless we go and pay for them out of our own scanty stipend, I can see no reason why the people should not pay for what seems to be incident to our position as the people's agents. To them it is of little moment, but to us who have so many calls made upon our purse in consequence of our being here, it is a matter of considerable importance. I am not in favor at this time of engaging the publication of our official record, but I am in favor of having placed upon our desks the newspapers which have at least a sketch of our proceeding, and in some of them whole columns of criticisms upon our doings. We may learn something from them and our constituents want to see what is going on as well as we do. How much easier to furnish them that information by papers than by letters, and how much more fully it can be done. Gentlemen say, why not do so out of our own pockets? We are engaged, not upon our business, but upon the people's business, and they ought to pay the expense. Nor should Uncle Sam begrudge a little expense to start us out with our freedom papers. I will move to amend the substitute by striking out all after the word "resolved," and insert—

"That the publishers of the various daily and weekly newspapers of St. Paul be requested to furnish two copies of each publication to every member of this Convention."

Mr. PERKINS. My idea is that there will be a paper selected to publish the official reports of this Convention. As to the other papers, it does not seem to me right to procure them and saddle the expense upon the contingent expenses of the Convention. What is the object of having those papers at all? Is it to circulate them through the country? I am not as anxious to circulate those papers that lie about the Convention as I am those that state the truth, or furnish the official record. The statements of those papers mislead the public mind, and prejudice it against the Convention. My object is to get a reasonable number of the correct reports of the Convention for each member, and send them among the people, that our constituents may know what we are doing. It seems to me absurd to get copies of the *Pioneer* which does not tell a correct story, and only the same number of the papers which publishes the official report.

Mr. SECOMBE. I am in favor substantially of the substitute, and opposed to the amendment. It seems to me that if we can have laid upon our tables each morning a paper which will publish the journal of our proceedings kept by the Secretary, it would be of great use to us. We could examine it and discover the errors, if any, before the Journal is read by the Secretary. Upon a simple reading of the Journal, without inspection, we are likely to let errors slip in, which would be corrected if we had laid upon our table, previously, a printed copy of it. I am opposed to the amendment, because I do not

think that we should call upon the public to pay for papers, simply that we may read what is said about the Convention, or about matters outside of it. The true policy is for us ordinarily to pay ourselves. I shall consequently vote for the substitute, and against the amendment.

Mr. PERKINS. I do not so much object to extra copies, as I do to restricting the number which contains the official report to the same number as the others. People at a distance are not so well able to judge of the correctness or incorrectness of the representations in the papers as we are. These journals do go abroad, and I have no objection to their being circulated by us, but I say the truth should be more extensively circulated. Twelve copies of the official report is better than twelve copies of garbled proceedings.

Mr. MURPHY. I move that the word "weekly" be stricken out from the amendments. We get the dailies, which contain all that appears in the weekly.

The motion was agreed to.

Mr. HAYDEN. I move to amend the amendment by striking out "two" and inserting "one." I think one copy of the *Pioneer* is all we need and one copy of each of the other dailies will answer to furnish us with all the information we can get from them. When we get an official paper, I agree that it will be well to procure a larger number of that. I do not wish to send abroad such falshoods as are contained in some of the papers.

Mr. NORTH. I have got hold of a copy of the *Pioneer* once or twice, and there was choice matter in it which I desired to keep. I want to preserve some of them for future use, but I have been unable thus far to hold onto them. If I can get two copies I shall be likely to succeed.

Mr. GERRISH. I think the best way is to send the *Pioneer* into the country with with the other papers. If our object is to convert the people to our views, that is the very best course we can pursue. The people will then see the ridiculous position the *Pioneer* takes, and having both accounts they can judge better how both parties stand.

The question was taken on Mr. HAYDEN's amendment, and it was not agreed to.

Mr. CLEGHORN, offered the following amendment to the amendment. Strike out all after the word "resolved," and insert—

"That each member of this Convention shall be entitled to ten copies daily of any paper published in this city, which he may select."

Mr. COGGSWELL. I feel it my duty, as an individual, to place myself upon the record right in this matter. Simply because Conventions of this character have once done things, it does not follow that we should do the same things. Simply because a conventional body has ordered papers for the individual benefit of its members, it does not follow that we are bound to take the same course, or that we have a right to do so. It seems to me that we ought not to make an appropriation, either of our money, or of the Federal Treasury, unless there is some reason for it. The first reason assigned for doing so, was assigned by the gentlemen from Dakota county (Mr. FOSTER,) which was that we might learn something, provided we took that number of papers. There are other and better sources to which we can go for the purpose of obtaining information. What kind of information do we want? We want such kind of information as will enable us as members of the Convention, to discharge our duties. Is that information likely to be obtained from newspapers? My impresaion is that the people of the Territory and the Federal Government have provided sources, which, if we can have access to them, are amply sufficient to aid us in that respect.

Another thing. If we have the right to subscribe to newspapers in St, Paul, have we not the same right to subscribe for papers published in St. Anthony?

The gentleman from Dakota said he was in favor of taking copies of every paper of the city which publishes sketches of our proceedings. Suppose the St. Anthony papers should happen to contain a sketch of our proceedings. Why not subscribe for them? It strikes me that we have the right to do the one as much as the other, and no more. If you can learn from St. Paul papers, you can from the St. Anthony papers.

An attempt has been made to arraign the *Pioneer*. This is not the proper place to arraign any paper, Whenever we are charged by any paper with a dereliction of duty, whether it be by the *Pioneer*, or *Minnesotian*,

or any other paper, then, and not till then, is the time to defend ourselves. I want no better place to defend myself than before that tribunal which I recognize above all other tribunals, save one, and that is the tribunal of the people. It does not become us as members of the Convention, to arraign any paper before this Convention — neither to charge or intimate that any paper has been guilty of falsehood, unless they come individually and personally upon us as members, and then it might not be inappropriate for the individual aggrieved to make explanations.

Another reason urged is, that we may send them home to our constituents, and this is made a permanent reason. The mere fact that such a thing will gratify our constituents is no reason why we should send those papers. If I want to hire a liar I will hire and pay for him on my own hook, and will not ask Uncle Sam, or this Territory to pay him.

Another reason urged is, that we can see the arguments on both sides, and the positions taken by individuals who represent both sides of certain questions. We can obtain such information on our own hook, and we ought not to make it a public burden simply for the purpose of ascertaining what our political enemies say against us.

Therefore I have made up my mind firmly against anything like ordering any number of these papers in St. Paul, unless they contain the official record of our proccedings. When that is done, I am ready and willing to make a liberal appropriation.

Mr. WILSON. I am opposed to taking all and any of these papers in the way proposed. I think the probability is that the expenses of this Convention will be borne by the people of this Territory, and therefore I shall be a little more careful in our expenditures than I should be if they were to be borne by the United States. But in either case I do not think we have the right to order these papers at the public expense for distribution, and clearly not to take them for our own use. If we have, we have equally the right to purchase books for our own use.

As to our pay being meagre, we knew that before our election, and I ventured to say that there are not more than one or two here who did not come here of their own free will and desire. We came here not because we were urged by the people, but because we wanted to come. Many others desired to come in our places.

Let us look to the justice of this thing by taking papers for distribution among our constituents. And then to the item of expense. If I take a dozen copies for distribution to whom do they go but to a dozen of my particular friends? I, sir, have some two thousand voting constituents. Each one has an equal claim upon me, but only a dozen get the papers purchased at the expense of the whole. More than that, two thousand voted the Republican ticket, and one thousand did not vote it, and all are entitled to an equal share in the distribution. Now I say the masses get no benefit of the distribution. The distribution is partial, and made for personal and political purposes. It cannot be otherwise.

And what is the item of expense going to be? Let me say here that every item of expense of this Convention with interest added to it, will be arrayed before and held up to the people, for the purpose of making capital out of it. True, that should be no inducement to act, but we sshould be careful to act cautiously, and see that there is not that done which can be taken advantage of. What will be the expenditure in this case? Say each member gets twelve copies. There are or will be sixty members. Twelve times sixty are seven hundred and twenty—the number of copies—which at five cents each amounts to $36 per day. Suppose we sit 30 days,—and we are more likely to sit double that time—we shall spent $1080 for the session for this one item alone, for the benefit of ourselves and our particular friends. That will make an item in the sum total of the expenses of the Convention, and I trust gentlemen will not vote in favor of it.

I shall send off just as many papers without the appropriation as with it, and others will do the same—true, at our own expense though. We came here, knowing that this was not money making business.

But say some, we can, in this manner, have the proceedings of this Convention laid before us every morning, and can send them to our constituents for their information. I say we cannot have the journal of our proceedings so published. I have myself made inquiries

of authorities which know, and they tell me that it is impossible, here or elsewhere to have the proceedings of to-day laid before us to-morrow. Even in the city of Boston that could not be accomplished, much less here. Then all we should get would merely be a newspaper with some items and scraps of our proceedings in it.

As to the *Pioneer and Democrat*, I am opposed to ordering it for a reason not urged as yet by any member. I would oppose taking any lying work. But can we get this *Pioneer and Democrat* in the way you propose to ask for it? There is a reason which weighs with me more than any other. I would not put ourselves in the position of being refused. But independent of that, I would not take and circulate them at the expense of my constituents. If I circulate them, I do so out of my own money, and when that fails I take no more papers.

Mr. PERKINS. One word about this bug-bear of expenses. I have no idea that it is going to cost us as much by the quantity as by the single paper. No such amount of expense as has been represented, will attend the taking of these papers. Fifteen cents per week I am told is the price of the dailies, and I do not think our constituents will censure us at all. Mine are liberal enough to have an official report circulated among them. They need not all be sent to the same persons. To-day I would send to some individuals and to-morrow I would send to different ones, and they will be circulated from hand to hand, and nearly all will, in some way, get a correct idea of our proceedings here. That is the way such things are usually done, and I believe the people are generally pleased with a moderate appropriation of that kind, to circulate the proceedings of legislative bodies among them.

As to the impossibility of getting the journal of the preceding day laid upon the table each morning, that is no great bug-bear. Suppose it should be a day or two behind, it would not be material, but when it came we could circulate it as the official proceedings of this Convention. What ought to be done can be done.

Mr. HUDSON. I wish to have it understood that I am opposed to taking any newspapers unless we pay for them ourselves, and I think the argument of the gentleman from Winona [Mr. WILSON] upon that point perfectly conclusive. We have no more right to pay out the people's money in the purchase of papers than we have in the purchase of books. The people sent us here for the purpose of making a Constitution, and we have no right to say that ten or twelve of those persons shall be enlightened, and that the others shall pay for it. Every man has the privilege of taking a paper for himself, and that is what should be done. I am in favor of every man's taking a paper, and in favor of every man's paying for it himself.

Mr. MANTOR. I am really glad that this question has been brought before the Convention. What arguments have been deduced in this discussion, save what I have heard for a few minutes past, I do not know, but I am pleased that the subject is brought before us. I represent quite a large constituency who are a reading community, and who like to know what the Convention is doing. In order that they may have that information it is essentially necessary that we should provide them with the means of obtaining it. How are they to obtain it? By my money, the money of an individual?

That should be so according to other gentlemen's arguments. I want my constituents to have the information—the Lord bless my constituents, for I love them because they sent me here. (Laughter.) I wish the people were here to hear gentlemen's argument, and I believe if we were then to have another election there would be less of them here.

I live thirty miles back from this great thoroughfare—the Mississippi—and I know of no other way of letting my constituents know that I am here, than by sending papers to them every day. To them it will be a gratification to know how my vote stands recorded upon the various questions which come under our consideration. In this view of the matter I hope the resolution will prevail.

To-day I have spent the enormous sum of one whole dollar for the purpose of purchasing newspapers to send home to my constituents, and whether this resolution prevails or not, I shall continue to do so from day to day, until the Convention adjourns, and for what purpose? Simply that the doings of

this Convention may be known to my constituents. I know that when the post offices are crowded with documents, the people are satisfied. As I said before, I represent a secluded district which cannot get the information they desire as readily as people do who live on the river. The constituents of gentlemen living below, get a knowledge of the proceedings of this Convention every day, if not through the press, yet from individuals who are passing through. My constituents have but one resort, and that is the press; and I am in favor of crowding all the papers upon them that I can get. I think it is the duty of the Convention to pass the resolution, and I hope there is not a gentleman here who will vote against it.

I have before me a resolution of a similar character which was adopted by the Convention which framed the Constitution of the State of Wisconsin, and it is in these words:

"*Resolved.* That each member of this Convention be furnished with forty copies of any paper published in Madison during the session of this Convention."

Let us study economy. That is all well, and as the resolution is one of confined limits, I shall support it. It amounts to little out of the sum which has been donated or appropriated for the purpose of paying the expenses of this Convention. It is for the benefit of our constituents from whom the money comes. We do not receive the benefit of the resolution. We can get up any morning, and at our own tables, without any expense, see he brick bats which are daily hurled against this Convention, but our constituents know nothing about it. Let the resolution prevail and let the people have the papers.

Mr. KING. I have made an estimate of this item of expense provided we sit here thirty days, and take ten copies each of a daily paper, and it amounts to the sum of $540. The objection has been urged that a few privileged individuals only will get the information. I admit that fact and contend that it is right. Bear in mind the fact that it is only a few prominent men in any commonwealth who undergo the toils and vexations of carrying on the machinery of life. Go into any neighborhood and inquire into the political aspect of the times, and you will find only two or three that can tell you any thing about it. Well, it is through such men that we reach the masses who have not much time to read, or who, if they do read, understand and comprehend but little of what they peruse. Therefore it is right to send these papers to the few of our constituents who have the leisure to read and can comprehend readily what they see. Suppose I send home ten copies of a paper to the most active of my constituents, they immediately glean the news and then circulate the papers among some of their friends, and converse with others about their contents. In that way the papers go from Sunday morning to Saturday night, and they are read until they are worn out. Now, our constituents will say we are neglectful of our duty if we deny them this privilege.

I am in favor of the last amendment. I have some democratic friends and it is my duty to give them the information they will get through the Democratic press, and so far as I see fit to accommodate them, I accommodate my friends. I do not wish to make any charges against the press, but I will state that I can well see how the *Pioneer* may make more Republicans than any other paper published in St. Paul. I can cite many cases of converts it has made to the Republican faith. It acts as an emetic acts upon the physical system,—turns the stomach upside down, and leaves the body politic in a better condition than it found it.

Mr. STANNARD. I think there has been a great deal of powder lost here, as it is very doubtful, if the resolution passes, whether the newspapers in this city will trust the Convention to that amount. I move the previous question.

The previous question was seconded.

The question was then taken on the amendment to the amendment, and on a division there were yeas 24, nays 18.

The question next recurred on the amendment to the substitute as amended, and being put it was decided in the affirmative.—Yeas 24, nays 16.

The next question was upon the adoption of the substitute as amended, in place of the original resolution, and being put it was decided in the affirmative,—yeas 27, nays 15. So the resolution was finally passed in the following shape:

"*Resolved*, That each member of this Convention shall be entitled to ten copies daily of any paper, published in this city, which he may select."

A slight discussion here arose, as to whether the resolution confined members to one particular paper or not, and the result was that the vote by which the resolution passed was reconsidered, and then the resolution was referred to a select committee of three, consisting of Messrs. STANNARD, FOSTER and CLEGHORN, to report back a resolution in a proper shape.

QUALIFICATION OF OFFICERS.

Mr. WM. FOSTER, sergeant-at-arms elect, presented himself to the Convention and was duly qualified by taking the usual oath of office.

The oath of office was administered to WM. H. SHELLY, who was this morning elected Messenger to the Convention.

ACCEPTANCE OF THE PROPOSITIONS OF CONGRESS.

Mr. McKUNE offered the following resolution.

"*Resolved*, That all propositions contained in section five of an act entitled 'An Act to authorize the people of the Terrritory of Minnesota to form a Constitution and State Government preparatory to their admission into the Union on an equal footiug with the original States,' are hereby fully accepted, and the President of the Convention authorized to appoint a select committee to prepare an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary to have, securing the title to said soil to *bona fide* purchasers thereof, and that no tax shall be imposed upon lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than resident proprietors."

The resolution was laid over one day under the rules.

Mr. GALBRAITH presented the credentials of BOYD PHELPS, which were referred to the committee on Credentials.

The committee subsequently reported that they had examined the credentials and had found them correct, and recommended that Mr. PHELPS be admitted to a seat in the Convention.

The report of the committee was accepted, and Mr. PHELPS was qualified by taking the usual oath of office.

On motion of Mr. SECOMBE the credentials of Mr. PHELPS, were ordered to be entered at large upon the journals of the Convention.

PRINTING OF THE CONVENTION.

Mr. COGSWELL offered the following resolution:

"*Resolved* That the committee upon Public Printing have full power and authority to receive proposals and contract with the lowest and best bidder to do all the incidental printing, and also do the printing of the journals and debates of this Conventiou."

Mr. HAYDEN. Does not that resolution lie over one day under the rules?

Mr. KING. I ask for the reading of the rule.

The rule was read as follows:

"Every resolution debated or giving rise thereto lies over one day without debate or other action."

The resolution was laid over.

Mr. MURPHY. (at five o'clock and five minutes P. M.,) moved to adjourn.

The yeas and nays were demanded and ordered, and the question being taken, there were yeas 28, nays 24, as follows:

Yeas—Messrs. Anderson, Baldwin, Bolles, Cleghorn, Cederstam, Coombs, Davis, Eschlie, Galbraith, Gerrish, Hall, Hudson, Hanson, Holly, King, Kemp, Lyle, Lowe, McCann, McKune, Murphy, Phelps, Peckham, Secombe, Vaughn, Winell, Watson and Wilson.—28.

Nays—Messrs. Balcombe, Bates, Billings, Butler, Colburn, Coggswell, Coe, Duley, Dickerson, Foster, Folsom, Hayden, Harding, Mantor, Messer, Morgan, Mills, North, Perkins, Putnam, Robbins, Russell and Smith.—24.

The committee accordingly adjourned until nine o'clock to-morrow morning.

FOURTH DAY.

THURSDAY, JULY 16, 1857.

The Convention met pursuant to adjournment, at 9 o'clock, A. M.

The roll of the Convention was called, when a quorum of members answering to their names.

The Journal of yesterday was read and approved.

On motion of Mr. ALDRICH—

"*Ordered*, That the letter of the Rev. E. D. NEILL be taken from the table, read and filed with the Secretary of the Convention."

The communication was accordingly taken from the table and read to the Convention.

NEWSPAPERS FOR MEMBERS.

Mr. FOSTER, from the Select Committee to whom was referred the resolution in relation to furnishing members with newspapers, reported the following resolution, with a recommendation that it do pass, viz:

"*Resolved*, That not exceeding ten copies of the daily newspapers, or their equivalent in value of weekly newspapers, be allowed to each member of the Convention; that each member furnish a list in writing to the Assistant Secretary of the number of each newspaper he desires, and said Assistant Secretary is hereby required to notify the several publishers of the number of copies required, and request that they be delivered to the Sergeant-at-Arms, of the Convention, to be distributed by him according to the list furnished to him by the Assistant Secretary."

The report of the committee was accepted and the resolution adopted.

ACCEPTANCE OF THE PROPOSITIONS OF CONGRESS.

Under the order of business, the Convention took up for consideration the resolution offered yesterday by Mr. McKUNE.

The resolution which was reported to the Convention, relates to accepting the propositions contained in the fifth section of the Enabling Act of Congress.

Mr. MORGAN moved that the resolution be referred to the Standing Committees on Miscellaneous provisions.

Mr. FOSTER. I question whether that is the best committee to which to refer the resolution. We had better look over our committees and see what they are, and what their duties are, otherwise this committee on Miscellaneous business will have too many matters referred to them.

The Act of Congress, called the Enabling Act, requires us to make provision, either by a clause in the Constitution, or by an ordinance irrevocable, that we will never interfere with the primary disposal of the soil by the United States; that we will not tax the lands of non-residents higher than those of residents, &c. It is the opinion of some persons that we should comply with that requirement by an ordinance, so that the Commissioner of the Land Office might be immediately notified thereof, as the per centage upon the sale of the public lands would commence from its passage. Others think that the ordinance should be passed by the first State Legislature. It would seem that any such ordinance passed by us, must be incorporated into the Constitution; if not so, why should the Enabling Act say, "by a clause in said "Constitution."

Mr. MORGAN. I am not exactly able to see how a Convention assembled for the purpose of forming a State Constitution, can pass an ordinance. The question comes up, what is to give validity to that ordinance? Is it to be voted upon by the people separately from the Constitution? I am of the impression that the only mode in which we can meet the matter, is to incorporate such a clause in some manner in the Constitution, but my mind is not fully satisfied upon the point.

Mr. FOSTER. I would suggest that we had better let the resolution lie on the table until we can look over the Standing Committees, and perhaps we can find some other committee to which it can more properly be referred.

Mr. MORGAN withdrew his motion of reference.

Mr. SECOMBE. The meaning of this Enabling Act is perhaps a little ambiguous. It is as follows:

"*Provided*, The foregoing propositions hereby offered are on the condition that the said Convention which shall form the Constitution of said State, shall provide by a clause in said Constitution, or an ordinance, irrevocable without the consent of the United States, that said State shall never interfere, &c."

Now the question arises whether it was the intention of Congress to give the Convention the choice between two methods, or whether there is simply only one method pointed out to them. The question is whether the word "or" is conjunctive or disjunctive. It occurs to me that it would be safer, at any rate, to construe it as a conjunctive conjunction, as though it read, "by a clause in said Constitu- "tion which shall be an ordinance irrevocable "without the consent of Congress." It is certainly susceptible of that construction. Of course it should be referred to a committee. It was a point suggested by me yesterday whether a distinct Standing Committee should not be appointed, to whom should be referred these propositions.

Mr. MORGAN. I move that the resolution be laid upon the table.

The motion was agreed to, and the resolution was laid on the table.

PRINTING FOR THE CONVENTION.

Mr. COGGSWELL called up for consideration his resolution of yesterday, which was as follows:

"*Resolved*, That the committee on Public Printing have full power and authority to receive proposals and to contract with the lowest and best bidder to do all the incidental printing, and also to do the printing of the journal and debates of this Convention."

Mr. BATES. I am opposed to that resolution, because I am opposed to giving our printing to certain papers in St. Paul which misrepresent our proceedings, even though they may do it cheaper than others would.

Mr. FOSTER. In this new country in particular, and sometimes in the older parts of our country, this method of letting legislative printing to the lowest bidder is very much of a humbug. No matter what the rate of their contract, the printers, in such matters, manage in the shape of extras, to get more than the printing would cost if let out at printer's regular rates. I have seen this kind of operation carried on at legislative capitols. I recollect a case which occurred in connection with the Legislature of Pennsylvania. That body got into a difficulty about the printing and let it to the lowest bidder. At the end of his three years it was generally agreed that the printing had cost more than under the old contract. You cannot construct a contract which the printer, cannot, so to speak, drive a coach and four through. It arises from the peculiar nature of their business. Very few understand it, and though you may restrict the printer to so much per thousand ems, and so much per page for press work, he will astonish you with a quantity of ems and an amount of press-work that you did not dream of, and he will prove his account, too, in a court of justice, if necessary, to be correct, according to his contract. The man who will take the contract for the purpose of getting it, is the very man to resort to underhanded means to get all he wants. I prefer employing a printer at the usual rates, compelling him to resort to no trickery or arts in order to get adoquate pay. If we let it at the lowest bid, the *Pioneer and Democrat*, or some press of that character, will come in and bid very low. They have the officers of the government as their auditors, who are not very much opposed, to say the least, to such papers, and the result of such an arrangement would show that we had helped our enemies, discarded our friends, and saved nothing at all.

In reference to our printing which is immediately necessary, I prefer that a special contract should be made. We shall get it done quicker in that way than in any other. Let the Assistant Secretary get it done where he can get it done the quickest, and to the best advantage. I think that is the best course to pursue until we go into the election of a printer, which I think should not be done until we can have a full conference of all the members.

Mr. BATES. I think the difficulty can be obviated, and in order to do so, I move to amend by striking out all after the word "Resolved," and insert—

"That this Convention go into an election for Printer to-morrow at 12 o'clock, M."

Mr. FOSTER. I move to lay the resolution and amendment on the table, and that they be made the special order of the day for to-morrow at 2 o'clock.

The motion was agreed to.

Mr. FOSTER. I move that the Secretary of the Convention be directed to procure the execution of such incidental printing as may be necessary to be done immediately, under the order of the Convention from day to day.

The motion was agreed to.

ACT OF LEGISLATURE IN REFERENCE TO THE CONVENTION.

Mr. SECOMBE. We passed an Order yesterday for the printing of 200 copies of the act known as the Enabling Act of Congress, in connection with the act of the extra session of the Legislature, relating to the same subject matter. I understand that it has been denied that any such act of the Legislature was passed, or that there is any such act upon the records of that Legislature. Now, sir, it is within my knowledge that such an act was published by the official paper of this Territory. I hold in my hand the copy of an act which was published in the "Minnesota Republican" of St. Anthony on the

28th of May last, copied from the "*Pioneer and Democrat*," the official paper of this Territory. It is of considerable importance that we should have an official copy of that act, if possible, for by virtue of the provisions of that act, and of that act alone, there are quite a number of delegates in my opinion, hold their seats in this Convention. As the Secretary has been unable to comply with the resolution of yesterday because he could not obtain a copy of that act, I offer the following resolution:

"*Resolved*, That a special committee of three be appointed to procure from the Secretary of this Territory a certified copy of the Act of the late extra session of the Legislative Assembly, entitled 'An Act to provide for the payment of the expenses of the Convention to form a Constitution for the State of Minnesota in accordance with an act of Congress approved March 3d, 1857,' for the use of this Convention."

Mr. COGGSWELL. Under our rules I suppose that resolution lies over one day.

PRESIDENT. It will, in consequence of the gentleman's remarks.

Mr. COLBURN. I move that the rules be suspended in order that the resolution may be considered at this time.

Mr. COGGSWELL. If that motion is debatable, I desire to say, that as one of the members of this Convention, I am decidedly in favor of the resolution laying over until to-morrow. That resolution refers to a certain act of our Legislature. What that act is I shall not pretend to say now, for the reason that perhaps I do not understand it thoroughly in all its bearings; but if my recollection serves me right, there are certain provisions in that act, which in my judgment the Territorial Legislature had no right to pass. There is, or there probably will be, a question raised before the Constitution is ratified by the people, and we become a State in the Union, in regard to the constitutionality of certain of its provisions. A question also will be raised at a certain time and in a certain place, in regard to the effect of whatever steps may be taken by this Convention in reference to it, and I desire that every member should thoroughly understand the effect that each step taken by this Convention may have upon the future prosperity of Minnesota. For that purpose I desire that the resolution shall lay over until to-morrow.

Mr. COLBURN. I am unable to see any force in the objection raised by the gentleman who has just taken his seat. If there is an act such as has been referred to, we ought to know what it is, and understand it in order to judge of its constitutionality, and to know what action should be taken by the Convention in regard to it. We only propose to make a call for it, and we can do nothing about it until we know what it is.

Mr. SECOMBE. We have already passed an order for printing 200 copies of that act in connection with 200 copies of the Enabling Act. Here we are, and have not the means of reading that act by virtue of which we are constituted. We should get at it as soon as possible.

The question was then taken on the motion to suspend the rules, and there were yeas 40 and nays 9. So the rules were suspended, (two-thirds voting in favor thereof).

Mr. COLBURN. I now move that the resolution be adopted.

Mr. SECOMBE. By the leave of the Convention I will read what purports to be a copy of the act which the resolution calls for.

Mr. S. here read the act and then proceeded as follows: This was taken from the "*Minnesota Republican*," published at St. Anthony, on the 28th day of last May, and it was copied from the "*Pioneer and Democrat*," the official paper of the Territory, of either the same morning, or a morning or two previous.

Mr. FOSTER. If that number of the *Pioneer and Democrat* can be found, it will be, by law, sufficient evidence, of itself, of the passage of the Act.

Mr. SECOMBE. I have already suggested the difficulty. I am informed that a member of the Convention who went to consult the records of the Territory, was informed that no such Act as that was on file. Another gentleman who went to consult the file of the *Pioneer and Democrat*, was informed that no such Act had been published. My object is to take the necessary steps now to ascertain whether any such law has been passed, and if so, whether it is in existence, and if not, whether a copy of the official paper containing it can be found.

Whatever views any gentleman may entertain of the legality or constitutionality of the law, or any part of it, it will be observed that

it purports to be an Act relating very materially to this Convention and its functions, and it is very important that we should have it before us in an official form, that we may guide ourselves by its provisions if they are binding. It seems to me that the first and the proper step to be taken is the one indicated by my resolution. If we get a certified copy from the Secretary of the Territory, it is, by law, made evidence of the existence of such an act, and of its provisions. If we do not get it, then we will have to take the next best evidence we can get.

Mr. HAYDEN. I was a member of the last Legislature, and my recollection is that such an Act was passed, and signed, and notice of its signature returned.

Mr. STANNARD. I had the honor to be upon the committee to which that act was referred. At the request of the chairman of the committee, I drew up the bill, and the bill which has been read is, verbatim, the bill which passed the House of Representatives, with the exception of the two first sections. They were not in the bill.

The PRESIDENT. As the chairman was a member of the Council, he would state that the two sections referred to by the gentleman who has just taken his seat, were introduced into the Council by the chairman of the committee to which the bill, which passed the House, was referred. He remembers being in the chair at the time the report was made by the committee, and adopted. It is the distinct recollection of the chair that the bill, as it has been read, passed the Council, was sent back to the House, and that the House concurred in the amendment made by the Council.

It is in the distinct recollection of the chair also, that the Enrolling and Engrossing Committees made their several reports, and that the Enrolling Committee reported it back as having been signed by the Governor.

Mr. STANNARD. That is probably the manner in which the two first sections got into the bill. The business of that session was done generally upon the rail-road system, (laughter) and it is not surprising that I should not be informed of those facts.

The PRESIDENT. The chair remembers distinctly the individual who offered the amendments.

Mr. COGGSWELL. I am exceedingly sorry that the Convention has seen fit to call up this question at this stage of our proceedings, and I am sorry that it is not now permitted to lay over until to-morrow. The object of the resolution is to obtain a copy of a certain act passed by our Territorial Legislature at its last session. That act has been read, and, as a matter of course, I have a right to refer to its provisions. If what has been read is a copy of the act for which the resolution calls, I want nothing to do with the act. As a member of this Convention I think I can discharge my duties without knowing anything further in regard to it.—This Convention has assembled here not under and by virtue of the provisions of that act, but under and by virtue of the provisions of an act of Congress. An act emanating from a power we are bound to regard and respect—an authority which we are bound to consider as the highest, provided that its acts are within the scope of the federal Constitution. So far as the act of Congress is concerned, I apprehend that there is no difference of opinion between us. Congress had the the right to pass it. In my judgment that act is all that is necessary for us to have in order faithfully to discharge our duties as members of this Convention. It, in the first place, provides that the inhabitants residing within certain limits, shall elect certain individuals whose duty it shall be to assemble at the Capitol of the Territory at a particular time. My impression is, that that question, being settled by Congress, cannot be interfered with in the least by our Territorial Legislature, and that if our Legislature undertakes to repeat the same thing their act has no effect whatever. The reaffirmance of the provisions contained in the Enabling Act amounts to nothing. A mere legislative construction of that act is not, in my judgment binding upon us; is not to be respected by us; neither is it binding upon Congress, nor will it be respected by Congress. The Organic Act, organizing the Territorial government of Minnesota, conferred upon the Legislature power to perform certain duties, and pass certain laws, and make certain rules and regulations, and as long as they confine themselves within the scope of that power their acts are legal and binding. But the moment

they depart from it, that moment their acts and proceedings are entirely null and void. The power granted by that Organic Act, is substantially in these words—

"The Legislative power of the Territory shall extend to rightful acts of legislation, consistent with the Constitution of the United States and the provisions of this act; and no law shall be passed interfering with the primary disposal of the soil, &c."

Now I am not going to discuss the question raised in the first section of the legislative act, which is in regard to the payment of the members of this Convention. Nor do I propose to discuss the right of the Legislature to make an appropriation for that purpose. We all know what the precedents have heretofore been. We all know that "Uncle "Sam" as a general thing, has footed all these bills, and it is my judgment his duty to foot our bills upon this occasion. But there are certain other provisions contained in that bill, which, in my judgment amount to nothing. For instance that provision which provides for the election of two members for each councilman who has to be elected to the Territorial Legislature. It is but a legislative attempt to construe an act of Congress. A right never delegated to the Legislature, and for that reason entirely null and void. The Enabling Act provides that "on the first Mon- "day of June next the legal voters in each "representative district then existing within "the limits of the proposed State, are hereby "authorized to elect two delegates for each "representative to which said district may be "entitled according to the apportionment for "representatives to the Territorial Legisla- "ture" &c. Now the only tribunals which can construe that act, are Congress and the Courts. The act of the Legislature making such construction is entirely nugatory. If the Legislature intended the very same thing which Congress intended, then all I want is the Enabling Act. If they intended a different thing I do not want their act, for the reason that I believe that it does not amount to anything.

Again, the sixth section of the Territorial act provides that the qualification of delegates to the Constitutional Convention shall be the same as for members of the House of Representatives of the Territorial Legislature. That seems to me but a reiteration of the language of the Enabling Act, and if it is, let us take the Enabling Act itself, and not a substitute. But if the Territorial act conflicts with the Enabling Act, so far it is entirely null and void.

I am aware that a great many individuals think that simply because an act has been passed by the Legislature, or by Congress, that it is binding and Constitutional—in other words that it is law. But I apprehend that the lawyers of this Convention know to the contrary. It seems to me that we want no other light for our guidance than that emanating from the Enabling Act, the Constitution of the United States, and the laws of the Territory which are made a part of the Enabling Act itself.

For these reasons I shall, at a proper time, move that the whole subject be postponed until to-morrow.

Mr. PERKINS. It seems to me that this matter might easily be disposed of. My friend who has just taken his seat misapprehended the purport of the resolution. It does not propose to take any action upon that act to-day, but simply calls for a certified copy of it, so that the members of the Convention can determine for themselves whether it has any applicability or validity. The gentleman assumes that because at the time it was passed, there was an Enabling Act existing, therefore it must be entirely invalid. That does not follow as a matter of course. There may be an Enabling Act, and at the same time a legislative act assisting in carrying out the provisions of the former. Whether it is such an act, remains to be seen. But what propriety is there in preventing the Enabling Act from being brought before the Convention? When it is brought before them, I have no doubt the Convention will deal with it properly. It may be a valid act. I do not say it is. When it is properly before the Convention I shall probably have something to say in regard to the validity of the thing itself, and decide for myself whether it is best for the Convention to pay attention to it, and whether it is best to proceed exclusively under the Enabling Act of Congress. The Enabling Act may be insufficient in itself for the purposes of the Convention in all its details; the paying of its expenses, &c.

Now the act of last winter seems to purport such an object—an effort to provide in detail for holding the Convention; paying its expenses, &c.; and it may be valid and proper. I do not say it is. I doubt whether it is so, but it is improper to assume that it is invalid, and to prevent gentlemen of the Convention from having an opportunity to examine it.

Mr. HAYDEN. I am opposed to the passage of the resolution at present. There is some doubt as to the legality of that act. There were doubts in regard to it at the time of its passage. It certainly can do no harm to let the matter remain in its present shape for the time being. If it is a law, it will benefit us the same in the end, whether we get it now or hereafter. If it is not a law, it will be of no advantage to us to request a copy of it at the present time.

Mr. FOSTER. I wish to make a remark or two in reply to what has been stated in regard to the effect of that law. So far as it repeats the act of Congress, it is mere surplusage, and has no effect whatever. So far as it construes a doubtful point in that act, it might perhaps be held to have effect; for instance, as to the word "representative" being taken in its general sense, including the councillors and the members of the House as the representatives from the different districts of the Territory. So far as it construes the act of Congress and decides that under the term "representatives" it meant the election of delegates at large in the place of councillors, I think it fair to take it as a decision of the people, whose agents the Legislature were, upon that question. So also in relation to the pay of the expenses of the Convention until Congress should have an opportunity to pay them. In that view of the subject it is important that we should know whether the act passed or not, and we should have it in an official form. But if this committee is appointed and they cannot find the act in the Secretary's office, they may possibly find it published in the official newspapers; and that is notice to everybody of the existence of the law. Still I prefer to have the matter lie over for the present.

Mr. SECOMBE. Some gentlemen seem to be afraid that some law has been passed, which if legal, will injure us. I hold in my hand a copy of the *Pioneer and Democrat* of the date of May 27th, 1857, the official paper of the Territory, which contains a list of the titles of the Acts passed at the extra sesion of the Legislature. Among them is a bill of this title:

"An act to provide for the payment of the expenses of the Convention to form a Constitution for the State of Minnesota, in accordance with the act of Congress, approved March 3d, 1857."

I consider that sufficient notice that such an Act was passed, and what has been read here purports to be a copy of that Act. Still we have not official information that it is a copy of the Act. We do know that such an Act has been passed, and it is of vital importance that we should know, and know soon, what the provisions of that Act are, and whether it is binding upon us in any respect. I do not see how any damage can he done to the Convention or to any member.

Mr. GALBRAITH. Suppose we do get it, what are we going to do? So far as that payment clause is concerned, I rather it were buried in the deep sands of the sea. I know the United States will pay the expenses of this Convention. If they will not, we can pay them ourselves. If the Act is in existence anywhere, it is published, and if it is published it is an Act; and what good it is going to do us to bother ourselves about it I cannot see. I care very little whether the resolution is passed or not. It is law or it is not, and the courts can decide that question when it is brought before them. Every member of the Convention has the right to go and request a copy of it from the Secretary. Under at former Secretary I know that a mere application by letter, for an Act, was sufficient to procure a copy from him.

Mr. STANNARD. I move that the resolution lie upon the table.

The question was put and the motion was agreed to. So the resolution was laid on the table.

REPORT OF COMMITTEE ON CREDENTIALS.

Mr. MORGAN from the special committee to whom was referred the petition of C. B. SHELDON to be admitted to a seat in the Convention, by permission, made the following report:

"That since the recommittal of the subject to them they have given a written notice to R. P. RUSSELL, the person to whom the certificate of election was given for the seat, that the committee

would meet on Wednesday, the 15th instant at 3 o'clock, P. M., at the Capitol in St. Paul, for the purpose of hearing evidence which might be offered upon the subject, and requesting him to be present and contest the claim of MR. SHELDON to that seat, if he saw fit so to do; that the committee was in readiness at the hour appointed, but MR. RUSSELL did not appear. Subsequently your committee desired Dr. MURPHY to call upon MR. RUSSELL to ascertain if he had received the written notice from the committee. Dr. MURPHY has this morning informed the committee that he had seen MR. RUSSELL, and that MR. RUSSELL informed him that he received the notice from the committee, that he had no cause for appearing before the committee as he had never taken the certificate of election and never intended to; that he had before informed MR. ALDRICH, a member of the Convention to that effect. All which is respectfully submitted."

The report of the committee was accepted and adopted.

Thereupon the following resolution reported from the same committee was taken up and adopted, viz:

"*Resolved*, That CHAS. B. SHELDON is entitled to a seat in the Constitutional Convention from the 11th Council District and as such should be admitted upon proper application being made."

Then, on motion of Mr. MORGAN, MR. SHELDON appeared at the bar of the Convention, was by the President sworn in, and took his seat as a member of the Convention.

On motion of Mr. HAYDEN, (at 12 o'clock and 30 minutes) the Convention took a recess until 3 o'clock, P. M.

AFTERNOON SESSIONS.

The Convention was called to order at 3 o'clock, and on motion of Mr. NORTH, took a recess until 5 o'clock, P. M.

The Convention was again called to order at 5 o'clock, and thereupon immediately adjourned until to-morrow at 9 o'clock, A. M.

FIFTH DAY.

FRIDAY, July 17, 1857.

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain, Rev. E. D. NEILL.

The roll was called, and a quorum being being present, the Journal of yesterday was read and approved.

PAPERS FOR MEMBERS.

The PRESIDENT. The chair takes this opportunity to notify the Convention that the Secretary informs him that the *Pioneer and Democrat* refuses to furnish papers to any member of this Convention unless he becomes individually responsible for the payment.

Mr. FOSTER. If they refuse, that ends the matter, and we are required to take no further notice of it.

Mr. COGGSWELL offered the following resolution:

"*Whereas*, It hath been represnted that in some of the representative districts of this Territory certain persons who were and still are federal officers, were voted for as members of this Convention and have received certificates of election, and whereas strong doubts are entertained as to the eligibility of such officers, and the right of such members to a seat in this body: therefore—

"*Resolved*, That a committee of three be appointed for the purpose of ascertaining,

1st. Whether any persons were voted for as members of this Convention who held a commission or appointment under the United States, (Postmasters excepted,) and if so in what districts, and also whether they received a majority of the votes cast, and have received their certificates of election.

2d. Whether any person who holds a commission or appointment under the United States, (Postmasters excepted) is elegible to a seat in this Convention."

Mr. C. said:—I wish simply to say that in my judgment the time has arrived when we should take steps to ascertain whether certain individuals are entitled to seats in this Convention. We have already taken the extraordinary pains to have our certificates entered at large upon the journals—a very unusual thing—and if there is another tribunal which can investigate our acts, and the fact as to whether we have been legally and properly elected as members of this Convention, it seems to me that they should have all the evidence that can possibly assist them in coming to a correct conclusion in regard to the right and authority of this body. I do not desire any definite action upon the resolution to-day, but offer it that members may take the matter into consideration.

Mr. GALBRAITH. It strikes me that it is not proper to enter into any inquiry of this, kind, until the question is properly raised. Every member sitting in this body now, is here by virtue of law. Every member here according to the precedents of parliamentary bodies in the United States, is a member *de facto*, and until the question as to his right is

raised, we cannot enter into an inquiry in regard to it, and I give my opinion now that if we should decide that any member of our body having a certificate has no right here, we have no means of ejecting him but by main force, and whoever should undertake to eject him would be liable for an assault and battery. Any lawyer will tell you that the man who comes with his certificate—the title deed to a seat—is *prima facie* entitled to it, and should this Convention upon investigation even, without the question being regularly raised, oust him from his place, they can only do it by main force, Now there is no one contending for the seat of any member here. If there is any contest, let it be decided by law and precedent. One thing we are certain of: Every man that sits in this body, sits here as a legal member, under the broad seal of his district, and until reasons are put upon the record for his removal, he cannot be removed except by main force. We are organized legally, fairly and justly, and we have the right to sit here, against the world.

The hint has been thrown out that the government will give us no pay. We can pay ourselves. We can make a Constitution and send it to our constituents. I think the resolution is premature, and therefore I hope it will not be passed. But it is well to think of the subject, and the gentleman has done well in calling our attention to it. It will enlighten members' minds, and lead them to ask themselves—"Why hold we seats here? "have we rights here? Are we members of "the Convention under protection of law?" We are, and that is the opinion of every member here.

Mr. M'CLURE. This resolution, as I understand, lies over until to-morrow, under the rules, yet I think it may be well, for members to express their opinion upon it. I am not in favor of adopting the resolution as it stands, but I should be in favor of it were it modified so as to apply only to members who have presented their credentials. We might properly ascertain whether we have any of these government officers in their seats here, and that object could be fully attained by the report of a Committee appointed to investigate the matter.

In reference to entering the credentials of members upon the journals, I shall at the proper time make a motion to reconsider the vote by which it was so ordered. I am entirely opposed to such a course. It is unprecedented and ought never to have been adopted. There is no tribunal other than the Convention itself to decide the legality of the election of the members of this Convention. The body itself decides it upon the evidence produced before it. From their decision there is no appeal, unless it may be to the people, and they cannot reverse the decision, but only decide whether we have done right.

Mr. SECOMBE. I move that the resolution and the subject matter thereof be referred to the committee on Elections and Credentials, when appointed.

Mr. COGGSWELL. I am exceedingly sorry that I am compelled to disagree with my friend and old law partner [Mr. M'CLURE.] who has just taken his seat. I have a high regard for his wisdom, honesty and knowledge, but I cannot accede to his views in reference to this matter. He intimates that there is no higher tribunal than this Convention which can review our proceedings. I disagree with him entirely. We are here by virtue of an act of Congress, and we can only come here in a proper, legal and legitimate shape. If we come here other than by virtue of the provisions of the Enabling Act, our proceedings are absolutely null and void. The body which confers upon us the power to come, can inquire whether we are entitled to our seats as members of this Convention, and, as such, have power to frame a Constitution or not. Suppose A, B, and C, and a hundred others, should claim that they were a Convention under and by virtue of the Enabling Act, but in fact there had never been an election held in any of the precincts of the Territory for the purpose of sending them here, do you suppose that simply because they said by their journal that they were members of this Convention,—nothing appearing on their journal showing that they were,—those facts could not be inquired into by Congress? I apprehend not. I apprehend that we have only to look to the proceedings which the House of Representatives of the United States took in regard to the action of a certain Convention, and of a certain Legislature, also, held in the Territory of Kansas, to be satisfied of the truth of my

position. I apprehend too, there are other instances in which Congress has investigated the regularity and legality of proceedings of Conventions of this character. If so, it is proper for us to look to this matter.

One word in reply to the gentleman from Scott County [Mr. GALBRAITH]. He thinks we have nothing to do with this matter at the present time, and that we cannot have until the question has been raised in the usual manner, by one person claiming the seat of another who claims to be a member. I do not understand it in that light. I understand that any member has the right to raise the question. The idea that no man but the one who claims the seat of another can raise the question, is not correct. I do not propose at present to sit in judgment upon the right of any man who has presented his credentials to this Convention. All I desire is, that a committee shall be appointed for the purpose of ascertaining whether certain individuals have been voted for in certain localities, who should not under any circumstances, become eligible to seats in this body. I agree with the gentleman that the certificate of election is *prima facie* evidence of right to a seat. But I ask the members of this Convention to discriminate between the doctrine that the certificate, being fair upon its face, is presumptive and *prima facie* evidence of the legality of a person's election, and the proposition contained in this resolution, which is simply to make an inquiry in regard to the eligibility of certain individuals, in certain contingencies, to a seat here. I am satisfied that our whole proceedings are to be reviewed by Congress, and I ask, gentlemen, what will be the evidence presented to that body? The journals of this Convention are proper evidence, and when members of Congress look into them and there see certificates of election apparently fair upon their face, they can come to no other conclusion than that they are *prima facie* and presumptive evidence of the rights of these members. When they see also that there is incontrovertible evidence of the fact that certain individuals, who were voted for in certain localities were officers of the United States government, (Post Masters excepted,) what conclusions can they come to, when they read the Constitution of the United States and the Organic Act, except that such individuals cannot become members of this Convention under any circumstances or in any contingency?

Mr. WILSON. I agree with my friend from Scott county [Mr. GALBRAITH] that this is not the time or place, nor are circumstances such as authorize us to go into an investigation of this matter, at this time. I agree also with my friend from Brookfield, in part, that under no circumstances, and on no conditions, am I willing as a member of this Convention, nor am I willing that this Convention itself should proceed to judge of the qualifications or eligibility of members who have never presented certificates of election here; have never asked admission into our body; and probably never will. I must object to that in toto. We must not only act fairly and honestly, but with dignity. We must not step to one side or the other for the purpose of gratifying outside curiosity. Of doing something forsooth, which may look well, unless it is legitimate for this body to do so. Whenever we do so, we place ourselves in a position which I do not wish to occupy. The last gentleman who spoke said he did not wish to sit in judgment on any member who has presented his certificate of election here, and been accepted by this body. We have a certificate of every member of this body, not one of which certificates are contested by an opponent claiming a seat here. This resolution then must have reference to members not within this body, and who probably never will be. If so, then we are going into an examination of cases outside of our body. We are upon one side; who is upon the other? Is it not an *exparte* examination by those who are opposed to those parties whose cases we are examining, without their having any chance to show their claims here. Will it not go forth to the world that it was our *exparte* examination? Most certainly it will. This body sits here and is supposed to act not only correctly, but legally. But it is not correct for us to decide upon the qualifications of a person who has never asked to be admitted as a member, and who never will come before that proposed committee to make a case for himself. It is not legitimate, and it is not right to do so, and we make nothing by it. The matter of his being an officer of

13th. A committee of five—*On Exemptions of Real and Personal Estate, and the Rights of Married Women.*

14th. A committee of five—*On the Punishment of Crimes.*

15th. A committee of five—*On the Amendment and Revision of the Constitution.*

16th. A committee of five—*On Internal Improvements.*

17th. A committee of three—*On Impeachment and Removal from Office.*

18th. A committee of five—*On Public Property and Expenditures.*

19th. A committee of five—*On Salaries.*

20th. A committee of five—*On Miscellaneous Business.*

21st. A committee of five—*On Schedule.*

22d. A committee of five—*On the Arrangement and Phraseology of the Constitution.*"

The report of the committee was accepted, and the committee discharged.

The question being on the adoption of the report of the committee.

Mr. MORGAN called for a separate vote on each committee, and the question being put, the recommendation as to committees Nos. 1, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21 and 22 was agreed to without debate.

On the reading of the 2d committee—a committee of seven on the Legislative Department.

Mr. HAYDEN said—There are so many committees, it seems to me that five members are enough on any one committee. I therefore move to amend by striking out "7" and inserting "5."

Mr. COLBURN. That matter was considered by the select committee. This is an important committee, as are also the committees on the Judiciary and on the Banking Department, and we thought it desirable on those committees to have as much counsel as we could. But if seven cannot attend, five would be a quorum to do business.

Mr. HAYDEN. My idea was, that as the committees are so numerous it would not be convenient to have more than five members upon a committee, as many of the committees would probably be in session at the same time. A committee consisting of five members, could act if only three were present, and as a general thing three can expedite business more rapidly than a larger number. In my opinion, five is a sufficient number on those committees which should be strong, and three on the others.

Mr. PERKINS. That is an important committee and it is important to bring to bear upon it all the wisdom possible to apply to it. This committee especially, and the one on the Judiciary, should consist of seven members, and their object should be not so much to expedite and get through business, as to deliberate calmly and seriously upon the subjects brought before them.

The amendment was not agreed to, and the recommendation of the select committee was adopted.

The report as to the 13th committee was read—a committee of five on Exemption of Real and Personal Estate, and the Rights of Married Women.

Mr. MORGAN said: I move to strike out that committee. The subjects contemplated by that committee have heretofore been subjects of legislation, and not considered proper subjects to incorporate into a constitution. They are matters which constantly change with public opinion. What might be deemed a sufficient exemption of real estate at this time, might not be at another time.

As to the rights of married women, I have never known them introduced into any Constitution. They are strictly subjects of legislation.

Mr. FOSTER. Although they are matters of legislation, rather than of constitutional provisions, yet I think a committee upon that subject should be appointed. No doubt the subject will be mooted and proposition made in reference thereto. At all events, we should have a committee to which they could be referred, and then it lies in their judgment whether to report them back or not. Let them put the matter in shape, if the Convention is to act upon it.

Mr. MORGAN. My principal object is not to lessen the number of committees. It is evident that some members must be placed upon two or three committees.

The motion was not agreed to.

The recommendation of the special committee was then adopted.

The question was then taken on the adoption of the report of the committee as a whole, and it was decided in the affirmative.

COMMITTEE ON BOUNDARY OF STATE, &C.

Mr. SECOMBE moved that an additional standing committee of five on the name and boundaries of the State be appointed.

Mr. COLBURN. The select committee had that subject under consideration, but came to the conclusion that the question was substantially settled by the vote of the Convention on Monday last. If we have accepted the Enabling Act, we have also accepted the boundaries specified therein. If that vote accepted the Enabling Act, as most believe it did, and as the committee think, it obviates the necessity of such a committee as this.

Mr. SECOMBE. I agree with the Chairman of the committee who reported the list of committees, as to the result of the resolution passed the other day, but that does not obviate the necessity of having this committee appointed to draft an article to be inserted in the Constitution, so that the Constitution itself shall contain the name and designate the boundaries of the State. It is not my intention or desire to have any change made in the name and boundaries as contained in the Enabling Act. It should be apparent to any one taking up our Constitution, what our name and boundaries are. It has been customary in similar Conventions, to have such a committee.

Mr. GALBRAITH. That matter having been substantially settled, as admitted by the gentleman from St. Anthony, it properly comes under the supervision of the committee on Arrangement and Phraseology, who in the course of their duties will arrange and place it in the Constitution.

Mr. HUDSON. I think the gentleman who made the motion has a correct idea of the matter. The committee on Arrangements and Phraseology have nothing to arrange but what is sent to them. I admit that we have settled the matter, but who knows the fact except members of the Convention. The Constitution should itself give the name and boundaries of the State.

Mr. COGGSWELL. I shall vote for the resolution for the reason that I do not believe that the question of boundary is settled. As one member of the Select Committee, I am not aware that any thing was said in regard to the formation of a Committee of this kind. Had there been, I should have been in favor of it. In the Wisconsin Constitutional Convention they had a committee of this character. That Convention was held under an Enabling Act not substantially differing from ours. For the reason that I do not consider this question settled, and that it must necessarily come up hereafter, I am in favor of this committee. I know that some members here, living in certain localities, feel inclined for some reason to express themselves in favor of the permanent settlement of this question. For my part the idea that it is permanently settled by the adoption of the resolution the other day, seems to me ridiculous. I shall vote in favor of the committee.

Mr. FOSTER. The subject will come up, and there is force in the remark of the gentleman from Goodhue [Mr. HUDSON] that the committee on Arrangement and Phraseology will hardly have the subject before them unless it comes in a different shape from that in which it now is. As one coming from a locality which believes that the action taken the other day was correct, I am willing to trust the committee and the Convention on that subject.

Mr. NORTH. I am perfectly willing that any amount of investigation and discussion if necessary, should be had upon the question of the boundary, but it seems to me that we have settled the question once, after considerable discussion and deliberation. It seemed decidedly agreed upon that we should accept the proposition of Congress in accordance with the Enabling Act, which settles the boundary question definitely. It strikes me that to appoint a committee on boundaries now, is inconsistent. I have very little idea that after the most lengthy discussion and most mature deliberation we shall change the position of that matter for I believe that a majority of the people of the Territory wish it to remain as it is. Such is the sense of the Convention deliberately expressed. But the question ought to be settled at once if it is not already settled, and if necessary, settled by a vote upon this proposition.

Mr. SECOMBE. I agree that we have definitely settled the name and boundaries of the State, but we did it for a particular purpose, and in compliance with a specific portion of the Enabling Act, which was a prerequisite to our going on to transact busi-

members to whom the resolution refers, from coming in here. Now this resolution simply contradicts that assertion. It is simply a declaration upon our part, without retracting anything we have said, without retracting one single step of our course, without expressing any regret for any act we have performed, that we are and have been desirous that those men who hold certificates shall come in and take their seats. I, as a member of the Convention am desirous that they should do so. I desire their aid and assistance in the labors before us. There are among them men of experience, ability and wisdom, whose advice would be useful and servicable to this Convention. If by passing this resolution we can counteract the false reports which have been circulated, without compromising our dignity, without retracting anything we have said or done, I see nothing objectionable in it to say the least.

Mr. HAYDEN. I beg to differ from those gentlemen who oppose the resolution. Such is human nature that it is often necessary that men should receive line upon line and precept upon precept before they will be induced to come up to that which they know to be right. They have to be urged, entreated and invited in various ways, and I never supposed that to do so, was undignified, or ungentlemanly. The great moral reforms of our world are based upon that principle, and I do not consider it undignified to ask those men to come in and take seats with us, though they know and their constituents know, it is their duty to do so. We should be glad to have them here, and if by giving them to understand that we are ready to receive them, and to do by them as we would they should do to us, they should be induced to come, I think we shall have accomplished an important work. I hope the Convention will vote to suspend the rules, and will pass the resolution. If they do come and act with us everything will go on harmoniously, and we will speedily accomplish that for which we were sent here, and the people will be satisfied.

The question was taken on the motion to suspend the rules, and it was decided in the affirmative.

The question then recurred on the passage of the resolution.

Mr. NORTH. It seems to me that this is a very plain and simple matter, and one which should not occasion much difference of opinion. If we were circumstanced just as those gentlemen are to whom that resolution refers, and we felt as I have no doubt many of them feel—desiring very much a different state of things—we should feel much more like coming and taking our seats if we were met cordially, the hand of friendship extended to us, and we treated like friends and neighbors in this matter, than we should if we saw an unfriendly and turbulent disposition manifested towards us. Kind words, it is often said, cost but little, but they are very useful.

Many long contests, strifes and wars have sprung from a few hard words in the commencement. I have no idea that any thing we say and do in the adoption of this resolution will give any one the impression that this Convention lacks the courage, nerve, or decision, to stand up to the right. We have our reputation pretty well established at the present time for that, and I hope also for courtesy and kindness to those who differ from us. By passing this resolution we extend our hand to them cordially, and give them a polite invitation, and thus declare that we appreciate their ability and services in the Convention. If they do not choose to accept the invitation, we place ourselves in the right position at any rate. If they spurn it, it but increases the difficulties under which they labor.

Mr. LOWE. I am reluctant to oppose the resolution as it seems to meet the views of the Convention, but it seems to me unprecedented in its character. I consider it entirely impertinent to suggest to those gentlemen to do what they know they have a right to do. It seems to me that this body should avoid any deviation from the ordinary course of proceeding.

Mr. FOSTER. On consultation with several members, and believing it sound policy I offer the following substitute:

"WHEREAS, There are several districts in the Territory which are not fully represented, in this body, and whereas we understand there are several delegates now in St. Paul who are entitled to seats with us, and whereas it is desirable to complete the appointment of the several committees of this body as soon as possible and to have in such committees the services of all the delegates

who are entitled to seats in the Constitutional Convention in order that our constituents may have the benefits of the combined wisdom and experience of all their delegates in the important work of framing their Constitution; therefore be it—

"*Resolved*, That the President be requested to delay the appointment of the several committees of the Constitutional Convention till Monday the 20th July instant, and that all persons who claim to be entitled to seats as delegates be respectfully requested to present their claims to this Convention before that time."

Mr. NORTH. I should be in favor of that substitute, if amended by striking out the request to the President to delay the appointment of Committees. With that exception, I prefer the substitute to the original.

Mr. SECOMBE. I did not intend to make any remarks upon the original resolution, but the substitute presents a different aspect of affairs, and I shall oppose it. I believe it is the wish of a majority of the Convention that the committees should be appointed immediately, and that we proceed to the discharge of the duties for which we have assembled, and then go home and present the Constitution to the people for ratification. I do believe it is bad policy to delay the matter any longer. We are properly organized and ready to proceed to business. We are already near the close of the first week, and this proposition is for the still further delay of two or three days. I do not favor the object of this delay, but I do not propose to object to the passage of the resolution unaccompanied by the definite action proposed by the substitute.

Mr. GALBRAITH. When this resolution was first presented I regarded it unfavorably.

It is well known that my desire is for union if possible—any union which will not sacrifice any prerogatives which this Convention has already acquired; which will not sacrifice our dignity, and our rights to be an organized Convention. I stand here feeling just as certain that we are organized according to law and justice, as I can be. I feel that we are the Constitutional Convention contemplated by the law. For that reason and various others which I need not mention, I came to the conclusion last night that longer delay was unnecessary and uncalled for, and that we ought to have the committees announced to-day.

I said that when the resolution was first submitted I disapproved of it. But wise men in this body, in whom I have confidence, and and one especially in whose judgment I have as much confidence as in any man in this body, have suggested to me that it is well probably to pass this resolution. He says to me, "You are a lawyer, and does not this "resolution operate as a notice to those who "have not presented their credentials that "we will not wait beyond a certain time, and "if they whose services we need and desire "upon the committee, do not appear within "that time, we will proceed to their appoint-"ment?" Such would be but following out the course usually taken in matters of public concern. Now there are among that number of men not in this Convention—kept out, I am sorry to say, by some foolish party whim, I know not what—on whom this Territory looks with great esteem and respect. So do I, and so do we all. They are men who have the qualifications of that mature intelligence which entitle them to important positions upon the Committees of this body. If those men refuse to come in, yet we shall have given them public notice of the fact.

The substitute is nothing more than the original resolution, with the simple addition of a fixed time for the appointment of the committees. As to the day, it is but to-morrow and Monday next. Saturday and Sabbath intervene. In that period they can have time to consider, we will be right upon the record, and the world will see, as we can see now, that this Convention have acted fairly; that they have organized and have the power in their hands, but have not made a desperate use of that power. We, gentlemen, are under the protection of law, and the protection of the majority, as we believe. We are here, plainly, clearly, and wisely organized. What submission is it for the victor to be honorable? Why strike a fallen foe? Hold our position where we are firmly, and what will the world say? It will stamp the brand of falsehood upon the slander cast forth, that this Convention has met here as a mob, and that we are so. It will make a clean record. Men who read our records will award us justice and say we are right. Reconciliation upon honorable terms is the disposition of every man in this body. Upon this ground we stand, and ask for our rights and ask for nothing more. Is not that fair?

What harm, then will this do us? It is important that we should be right upon the record, and, that we should refute the slanders, which have been heralded throughout the country. Be right ourselves, and if others will persist in the wrong, convinced against their will, we wash our hands of the consequences and say—"Gentlemen, you are the victims of "your own folly."

I hope that the resolution will pass, not that I was originally in favor of it, but because wise and cool heads in this body, and as firm men as ever stood upon this floor, have said they wanted the resolution passed. I yield to their views, and I trust that every member of this Convention will yield to what is right, and adhering to our own, tell the world that we are ready to do right and justice to others.

Mr. FOSTER. I offered my substitute with some fear that it might be objected to by many members, because I well know the anxiety of the Convention to proceed to business, and because I know their convictions are that we are *the* Convention, and that there is no doubt as to the correctness of our position. For those reasons I felt reluctant to offer it. But I thought I had reason to believe that it was better for us to pursue the course usually pursued in all courts of justice—give notice before we take judgment. Let them know that if on or before a certain day they do not perform or complete a certain act, we will and can wait no longer. It at once removes all excuse for delay. They know and the public know that our course is marked out, and that we are going right straight ahead. It is but a small concession. To-day nothing will be done; to-morrow is a non-working day, and Sunday is another. All that is asked is to delay until Monday morning, to give them notice of the delay, and that after that time the record is made up, and our course is onward. If after that, any thing happens which they do not like, theirs is the fault.

Mr. PERKINS. I do not intend to oppose the resolution of my colleague, although I am unable to see the propriety and dignity of stopping at this period of the Convention and attempting to clear up our character. We are assembled by authority of law, and assembled for legitimate business. I think if the course we hereafter pursue is as consistent as the one heretofore, all will be well in the end. I am opposed however to the substitute because it proposes still further delay, contrary to the well expressed sentiment of a majority yesterday. It seems to me to be the play of children. I see no evidence of a disposition on the part of those holding certificates to come into this body. They were in this Hall on the day specified in the Enabling Act for the assembling of this Convention. But they staid only long enough to adjourn themselves and go out of the Hall. I do not consider that we are bound, in honor or courtesy, to wait longer, and have our noses snubbed any more by those disaffected delegates, if any such there are. We can afford now to go along with our business and do the work for which we are assembled. If we are assembled according to law, why stop to clear up our character, and make any further show to the world than we have already made, that we intend to do the fair thing. If there are any individuals in town entitled to seats, let them present their certificates, and then it will be soon enough to show that we have no disposition to exclude them from this body. I hope the resolution will not be adopted, and that the committees will be appointed, in accordance with the general sentiment yesterday.

Mr. KING. We have no evidence in any official document that there ever has been a disposition upon the part of the Convention to exclude any members from their seats, and these outside reports, of which gentlemen are afraid, are not true. What is the use of asking men to disbelieve what they know is not true? They know they have the right to come here. If I wanted to go into a body to which I had a right of admission I would knock at the door, and if not admitted would take due course of law to get my rights. I would not wait to be invited and coaxed in any such manner. If we coax them in, they will be, when they get in, like other spoiled children. Let them come in like men, and they will act like men. I have myself come to the conclusion that some of our men who have been unflinching heretofore, are beginning to waver, and are becoming afraid of the consequences. If I see much further demonstrations of the kind, I shall vote for

some new leaders who will go ahead without fear.

Mr. MESSER. I see there are some gentleman here in favor of the resolution and opposed to the substitute. There seems to me an inconsistency in this. If they are in favor of inviting those gentlemen to come in, it is inconsistent to say that they will proceed with business at once so that they shall be debarred from being members of the committees.

Mr. BILLINGS. I ask each member of the Convention, if the passing of the resolution would accomplish the object contemplated by it, he would not vote for it? Will it not have a direct influence towards accomplishing that object? I have learned that concession always comes with better grace from a superior, and I have found its influence in individual cases extremely beneficial, and I think its exercise exalts instead of debases the man. It is said that we are confident of our integrity, and of the correctness of our position and that we ought to pursue our course energetically. That is true, but there is a haste which is not proper. We may run so fast that we stumble. We should make all due progress, and discharge our duties faithfully, efficiently, and in such a manner as to be able to go home to the people and stand approved in that second sober thought which will be brought to bear upon our actions. I do not consider a wish to delay this matter as an evidence that we wish to turn back. When I consider the interests at stake, the object for which we are met, and the difficulties which will be obviated by a little caution, I am certainly willing to vote for this delay. There is no man present who is not aware that we shall meet with innumerable difficulties, even if we form a Constitution, if it is an *exparte* one. Now, is there any man so fearful, so distrustful that the right will not prevail, that we must urge on our matters to day? Is there any disrespect or want of good faith in saying to those men that we want them to come in? I would delay action not only to-day and to-morrow, but still further if in this great work we could be united and move on harmoniously as one man in the accomplishment of the work for which we were sent here.

I do not believe in turning back, not at all. I believe that we are the regular Convention, that its duties are to be performed by us, and so far from yielding, if a majority say progress now, I am with them, but it is my candid opinion that it is discreet and proper to say to those who are not present to see what we do, and who are beyond the reach of the influences which prevail here, that we are willing, yea, anxious to avail ourselves of the intelligence, the experience and the wisdom of all elected to this Convention, in the formation of a Constitution, which is not for us alone, but for future generations. The breach is widened by outside influences, and no other power than this Convention can heal it. I propose to do nothing dishonorable to those members of the Convention, and I ask for no concessions. But I would say to them that we have open doors, open hearts, and ready hands to welcome them here.

Mr. NORTH. I have not desired to occupy time in the discussion of this resolution. It seems to me that it is well to pass it. The more I reflect upon it, the more I am in favor of the substitute as it stands, without the amendment which I suggested when I was up before.

It is gratifying to me to see the determination and resolution of the Convention; and to see even our clerical friends nerve themselves in so war-like a manner, is a little refreshing, and even if they accuse some of us of being tame and flagging in our patriotism, we will bear with them for the purpose of seeing the good courage and grit there is upon their part. But it seems to me there is nothing lost in showing courtesy in this matter. If I thought there was a member of this Convention who regretted any step this Convention had taken, who wavered for a moment in regard to the straight forward course we should pursue, I should feel very differently from what I do. But I have the most complete and perfect confidence in every member of the Convention—even in those who would suspect us of flagging; and having that perfect confidence and security in regard to the matter, I feel as though I should like to see this Convention show its good nature, its magninimity and its kind feelings towards those who have placed themselves in an awkward position. I know if we were in their position, we would like to be taken cordially

by the hand and to be treated with that courtesy with which we all desire to be treated. There is sometimes a great deal gained by forbearance. We have seen that exemplified in the warfare in Kansas, where some of the true patriots were impatient and indignant at the forbearance, and what they sometimes thought, the timidity of the Free-State leaders in Kansas. But experience has taught that that forbearance was the truest wisdom. If we err, let it be upon the side of forbearance, and not by rashness and haste throw away, the possibility of harmonizing this Convention, and cut off the prospect of a speedy formation of a State, and the admission of Minnesota into the American Union. I hope gentlemen will look upon this matter in a practical light. While we concede nothing of our rights in doing this, we do show a disposition of neighborly fairness, kind feeling and courtesy towards those who occupy a position different from ours. I hope the substitute will pass, and it would do me good to see it pass unanimously.

Mr. PECKHAM. When the resolution was first introduced it struck me as being beneath the dignity of this body, and as insulting to those members, but on a second thought I am led to believe that it is in purport, what it was in the spirit and intent of the mover. I has been suggested that the resolution is unprecedented; and certainly the circumstances are unprecedented. If I recollect right there was a sort of semi-official statement made that the members of this Convention, not in this Hall, were actually excluded from it. I refer to the answer of the President of the Convention to a certain demand which was made for the Hall, at a time when we were in session, by him who assumed that he had the right, by virtue of his office as Secretary of the Territory, to preside over this Convention. Perhaps this body ought to take the earliest opportunity possible to correct any such impression, if it exists. It may be possible that those who have neglected to take their seats with us may be laboring under the idea that they were excluded from this body by that reply, and as has been said, every act of conciliation, mildness and forbearance upon our part, will redound to our honor. Let us do all we can consistently to throw oil upon the troubled waters, and to accomplish that for which we were sent here, in order that Minnesota may, as speedily as possible come in as one of the States of our Union.

Mr. COLBURN. At the present time almost every deliberative body is divided into two classes, the one denominated "Young Americans," and the other "Conservatives," and sometimes "Old Fogies." Now I suppose if this body were thus divided I should be classified with the "Young Americans," but I am disposed under the circumstances in which we are placed, to listen to the voice of wisdom, and to pursue the course believed to be most judicious. If I err, I choose to be upon the right side. The circumstances are peculiar, and demand cautious action upon our part. When I came here this morning I was in favor of proceeding with our business immediately, but having conferred with gentlemen of the Convention in whose experience, wisdom and integrity I have great confidence, I am now inclined to think it will be judicious for us to pursue the course proposed by the substitute. It will serve as a notice to those who are without, that unless they see fit by a certain time, to come in and take part with us, we shall proceed without them. I hope it will be adopted.

Mr. COGGSWELL. I admire in the first place, the kind sentiment and feeling which have been manifested here by certain individuals upon my right. They are men of high standing, whose opinions and sentiments are entitled to the highest regard, and I warrant you, should they see any of their friends, or even enemies, in circumstances requiring aid, they would be the first men to step forward and grant it. But it seems to me that this is not the proper time or place to express our sympathetic feelings. We are assembled here as a Convention for the purpose of transacting business as such Convention, and so far as this substitute is concerned, I, as an individual, am opposed to the whole of it. Why? Not because it proposes to delay the announcement of the Standing Committees; for in my judgment that would make no difference in regard to the result of our deliberations. I wish to tell gentlemen here, if I understand what is to come in the future, that this idea of hurrying on with our proceedings will prove to be wholly fallacious. The idea

that we can lay the result of our deliberations before our constituents in one, three, or five weeks is fallacious. If we look at what our duties must necessarily be, we shall see at once that we cannot perform some of the most material parts of our labor until we ascertain the amount of our population. Without that, how are we to arrive at our representative, state, senatorial, and congressional districts? Can you get the census in one, two or three weeks? How will you obtain it? If you cannot obtain it, how can you complete your labors and go home to your constituents with your constitution?

It is not then that the substitute proposes to delay the appointment of the committees that I oppose it, but because, if I understand it, it offers to those gentlemen what I should consider an insult. Much has been said in regard to its being a concession on our part. Should it pass, I should not regard it as such, but as an insult to those who should be members of this body. Why? We propose, in the first place, to tell them that they are members of this Convention; not only that, but they are entitled to seats here; and not only that, but that we want them to come into the Convention and deliberate with us. Are they fools? Do not they know that they are elected as members of this Convention, and are we, the legitimate body, to sit here and adjudicate upon that fact before they present their credentials? Is it for us to say to them, "You are actually members of the Conven-"tion, and now for Heaven's sake come in?" If I were one of those gentlemen, I would regard it as a practical insult. I would say to you members of the Convention—"You "have no authority to tell me, nor is there "any propriety in your telling me, what my "rights and privileges are. I know them "well myself." For that reason I am opposed to the passage of the resolution.

If we were sitting in caucus, and an attempt were being made to bring about a reconciliation between Democratic and Republican members of this Convention, my judgment is that I should use just as sympathetic words as have been used here, for the purpose of effecting that reconciliation. And, in my judgment, a caucus is the only proper place to consider such a subject as this.

Much has been said about slanders which have been circulated. How do you know that slanders have gone abroad? Has any member of this Convention been hit? If he has, what were the means used for hitting him? Some might say the newspapers of St. Paul. And to show to the Editors of the newspapers, and the people of Minnesota that he has been wronfully charged with certain conduct, and that he is not such a scoundrel and villain as has been asserted, gentlemen would have this resolution passed. Let me tell gentlemen that I want no better place to repel any false charges which may be brought against us, than the stump before the people. I want no better evidence than the newspapers themselves, and the record of our proceedings.

Again, how do you know that there are any members outside of this Convention? When I introduced my resolution a short time since, touching the fact that certain members had been elected who were federal officers, postmasters excepted, objection was raised that a question of that kind was not before the Convention, and that it could not be raised before us as a Conventional body except in the case that such a man had presented his certificate of election, and his seat was contested. But now we propose to take it for granted that there are certain men running around St. Paul, who are actually members of this Convention, and under a "WHEREAS" the resolution assumes that there are such members, and proposes to invite them in. For myself I am opposed to any such "WHEREASES" with such assumptions attached to them. If there are such men, they know their rights; and if they know them, like the rest of us, they will maintain them. Such is our determination, and my judgment is, such is their determination. For that reason it strikes me that to pass this resolution would be a departure from our dignity as a body. We should go on and discharge our legitimate functions and duties, and when the proper time comes for us to repel slanders, let us repel them.

What will this invitation to them to come in, amount to? Suppose the resolution is passed, do you suppose they will come in, in accordance with it? Why, they will make all kinds of ridicule of us: they will laugh at us: they will sneer at us; and in my judgmen they will do nothing more than right.

For that reason I am in favor of going about our business as a Convention, and opposed to going to work to compromise with individuals in the streets of St. Paul, whom we assume to be members.

Mr. McCLURE. I offer the following amendment to the substitute:

Strike out all before the word "resolved" and all after the word "resolved" and insert:

"By this Constitutional Convention, that there are districts within the limits of the proposed State of Minnesota unrepresented in this Convention (at the present time) and being desirous that every district should be fully represented in the committees of this Convention, we therefore request the President of this Convention, to defer the appointment of the said committees until 11 o'clock, A. M., on Monday next, in order to give time for absent delegates to present their credentials."

I hope this amendment will be adopted, not because it is offered by myself, but because I am opposed to all "WHEREASES" and to anything of the kind, assuming that there are gentlemen in town entitled to seats in this Convention, who have not presented their credentials. As a member of this Constitutional Convention I do not know anything about it; as a man I know something about all these matters, but as a member I have no right to know whether a majority of this Convention are Republicans or Democrats. All I know is that I am a member of the Constitutional Convention assembled at the Capitol at St. Paul, for the purpose of transacting the legitimate business of such Convention. But all men know that there are certain districts unrepresented here. Who should represent those districts I know not. Whoever they are, the probability is that business or sickness detains them at home; at any rate the assumption is that they are lawfully detained. We are not to presume that they are in town, and refuse to present their credentials. Well, in order to give them time to get here and to participate in our proceedings, and to take part as members of our committees, I offer my amendment and hope to see it adopted.

Mr. GALBRAITH. That amendment exactly suits my views. The gentleman has exactly hit the nail upon the head.

The question was then taken by yeas and nays upon the adoption of the amendment to the substitute, and it was decided in the affirmative, yeas 51, nays 1 as follows:

Yeas—Messrs. Aldrich, Anderson, Ayer, Balcombe, Baldwin, Bates, Bartholomew, Billings, Bolles, Butler, Colburn, Coggswell, Coe, Cederstam, Coombs, Davis, Duley, Dickerson, Eschlie, Foster, Folsom, Galbraith, Gerrish, Hall, Hayden, Harding, Hudson, Hanson, Holly, King, Lyle, Lowe, Mantor, McClure, Messer, Morgan, Mills, Murphy, Perkins, Putnam, Peckham, Robbins, Russell, Stannard, Secombe, Smith, Sheldon, Vaughn, Walker, Winell and Watson.

Nays—Mr. Phelps.

The substitute as amended was then adopted.

ENTERING CREDENTIALS ON THE JOURNALS.

Mr. ALDRICH. I move to reconsider the vote, taken the other day, by which the Secretary was directed to enter our credentials on the journals of the Convention. It seems to me entirely unnecessary to make such an entry. It makes a great deal of work for the Secretary, and it will cost something to print them. The credentials have been referred to a committee, by them examined and reported to the Convention as correct. It seems to me that that is all that is necessary.

Mr. COGSWELL. I hope the motion will not prevail. For one I am in favor of having the evidence of my right to a seat in the Convention, placed upon the journal.

The question was taken and the motion to reconsider prevailed.

The question then was "shall the credentials be entered upon the journals?" and being put it was lost.

On motion of Mr. FOSTER, it was—

Ordered. That the credeutials of members be filed with and preserved by the Secretary.

PLACING THE ENABLING ACT ON THE JOURNAL.

Mr. HUDSON offered the following resolution:

"*Resolved,* That the law of Congress under which this Convention has assembled be recorded on the first page of the journal of the first day's proceedings."

The resolution was laid over one day under the rules.

ADJOURNMENT OVER.

Mr. SECOMBE. I move that when the Convention adjourns, it adjourn until Monday morning at 9 o'clock.

Mr. GALBRAITH. I should prefer that we adjourn to a later hour on Monday, as some of us, having business at home, do not live quite as near as the gentleman from St. Anthony. I move 11 o'clock, as an amendment.

Mr. SECOMBE. I accept the amendment.

Mr. COGGSWELL. I can see no good reason why we should adjourn until Monday, unless it be to accommodate a few of our friends who happen to live within a short distance from St. Paul. It is well known that most of us live at a great distance from this point. I live about one hundred miles distant. I wish here to state that I hope the Convention will not adjourn until that time, for the reason that I intend, after consultation with members of this Convention, to move an adjournment for some three weeks or more. I am inclined to think that an adjournment for that length of time will be necessary for the circumstances under which we are placed. If we should come to the conclusion that that is necessary, it seems to me that we might come to that conclusion between this time and next Monday morning, if we remain in session. There is certain information indispensibly necessary for us to have before we can go to work successfully. The way and manner in which we can obtain that information is a great question in my mind. There are certain methods which can be adopted for the purpose of procuring it. If we adjourn now until Monday, considerable time will elapse in which we cannot transact the business which should be transacted prior to a conclusion of the Convention that they will adjourn over two or three weeks.

The question was taken on the motion to adjourn over and it was decided in the negative.

ACCEPTANCE OF THE PROPOSITIONS OF CONGRESS.

Mr. ROBBINS called up for consideration the resolution of Mr. MCKUNE, presented on Wednesday last and laid on the table under the rules, in reference to accepting the proposition submitted to Congress, contained in the fifth section of the Enabling Act.

The resolution was read.

Mr. ROBBINS. I understand that it is necessary that we should dispose of this matter before any action is taken in the formation of a Constitution. We should dispose of it as soon as possible, in order that we may receive the benefit of the fifth section, by which five per cent. of the net proceeds of the public lands are granted to the State to be disposed of by the Legislature.

There is one point in the fifth section which should be looked at, and that is this:

"*Provided*, The foregoing propositions herein offered are on the condition that the said Convention which shall form the Constitution of said State shall provide, by a clause in said Constitution, or an ordinance, irrevocable without the consent of the United States, that said State shall never interfere with the primary disposal of the soil within the same, by the United States, &c."

It seems to me that this clause leaves it discretionary with us as to the manner in which it shall be complied with, whether by a clause in the Constitution, or by an ordinance. It was contended yesterday that this Convention had no right to pass an ordinance. It seems to me otherwise. If we do so, we avail ourselves of the immediate benefit of the five per cent. provision, because the ordinance will go into effect immediately upon its passage, and notice given of it to the Commissioner of the General Land Office. I hope the resolution will be adopted, and I know of no more appropriate time than the present.

Mr. KING. I think the gentleman is mistaken in his construction of the proviso. It provides that we put a clause in the Constitution, or an ordinance in the Constitution. It seems to me that the compliance must appear in the Constitution, and we shall get no benefit of the five per cent. fund until the Constitution is adopted.

Mr. GALBRAITH. I move that the resolution be laid on the table. My object is to have it referred to one of the standing committees, when they are appointed.

The motion was agreed to, and the resolution was laid upon the table.

On motion of Mr. HARDING, (at 12 o'clock and 30 minutes) the Convention took a recess until 2 o'clock.

AFTERNOON SESSION.

The Convention was called to order at two o'clock:

TAKING OF THE CENSUS.

Mr. COGGSWELL on leave offered the following resolution:

"*Resolved*, That a Committee of three be appointed to wait upon the United States Marshal, and ascertain if any steps are being taken by him in regard to the taking of the census, and if so, at what time in his judgment, he will be able to lay the same before the committee."

Mr. C. said: I wish to say that in my judgment it would not be improper for this Convention to ascertain what action the United States Marshal intends to take in regard to the census. For that reason I hope the rules will be suspended and that this resolution will be acted on to-day.

The rules were not suspended and the resolution was laid over under the rules.

Mr. ROBBINS moved that the Convention adjourn.

The motion was not agreed to.

Mr. NORTH. I would suggest that the Convention adjourn over until Monday at 11 o'clock in order to give those who do not reside at any great distance time to go home.

Mr. HAYDEN. I do not think that it would be wise for the Convention to take that course.

Mr. NORTH. Very well, I will not make the motion.

The Convention then adjourned until to-morrow at 11 o'clock, A. M.

SIXTH DAY.

SATURDAY, JULY 18, 1857.

The Convention met at 11 o'clock.

Prayer by the Chaplain, Rev. E. D. NEILL.

The Journal of yesterday was read and approved.

REPORTING.

Mr. NORTH. The committee having charge of the matter of employing a reporter beg leave to report:

"That after conferring with several gentlemen upon the subject, they have received a proposition from Mr. ANDREWS to take a full report of the debates and proceedings of the Convention at the rate of $6.25, per one thousand words. The committee have become satisfied that it is the best arrangement they can make, and therefore submit the following resolution:

Resolved, That THEODORE F. ANDREWS, Esq., be employed to take a full report of the proceedings of this Convention, and that he be allowed $6.25 per thousand words for taking such report.

The resolution was adopted.

ACCEPTANCE OF UNITED STATES PROPOSITIONS.

Mr. PERKINS. I have a resolution which I wish to offer as a substitute for the one offered yesterday, which, if I recollect it, proposed to provide an ordinance accepting the propositions of the Enabling Act. Some questions were raised at that time as to the meaning of the Enabling Act. For the purpose of silencing any questions of that kind, I propose to introduce the resolution in a little different shape. I move this as a substitute:

"*Resolved*, That there be incorporated into the Constitution of the State of Minnesota to be framed by this Convention, a clause, irrevocable without the consent of the United States, 'That the said State shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for the securing the title in said soil to *bona fide* purchasers thereof; and that no tax shall be imposed on lands belonging to the United States; and that in no case shall non-resident proprietors be taxed higher than residents.'"

It seems to me this is all the Convention need do now, and it seems to me that the Convention may and should insert such a provision in the Constitution. As far as the power of the Convention to form an ordinance outside the Constitution is concerned, this will obviate the necessity of any such ordinance. I suppose the resolution will be referred to some one of the standing committees with instructions to report such a clause to be inserted in the Constitution. I think this is the safest and best way of proceeding.

Mr. FOSTER. I submit whether this resolution had not better lie over until the other resolution on the same subject comes up for consideration. I am afraid we shall shingle our journal all over in different spots with these resolutions, without making a good roof any where.

The PRESIDENT. The resolution having given rise to debate, lies over under the rule.

ELIGIBILITY OF CERTAIN MEMBERS ELECT.

Mr. COGGSWELL called up for consideration, the resolution of inquiry offered by him yesterday, in reference to the election of persons to this Convention who held commissions from the United States Government, &c.

Mr. HARDING moved to lay the resolution on the table.

The motion was agreed to.

CENSUS OF MINNESOTA.

Mr. COGGSWELL then called for the consideration of a resolution offered yesterday, for the appointment of a committee to wait upon the Marshal of the Territory to make

certain inquiries in reference to taking the census of the Territory.

The resolution was read.

Mr. FOSTER moved to lay the resolution on the table.

Mr. COGGSWELL. For my own part I cannot see any reason why the resolution should lie over until Monday. If there is any reason, I should like to hear it stated. It seems to me necessary for the Convention to have the census of the Territory in order that they may discharge their duties in a proper, correct and impartial manner. The Enabling Act makes it the duty of the United States Marshal, as soon as the Constitutional Convention shall have passed a resolution declaring it to be the wish of the people of the proposed State to come into the Union, to immediately cause a census to be taken. That resolution has been passed by the Constitutional Convention, and a copy of it has been transmitted to the Secretary of the Interior, and also to the United States Marshal. We need that census to act upon in carving out our State representative, our State senatorial, and our representative districts. We cannot adjourn and carry a Constitution home to our constituents, until we have that knowledge, or knowledge which will answer the same purpose.

It has been suggested by certain members of the Convention that the object of Congress in directing the Marshal to take the census was simply and solely that we might ascertain how many representatives we were entitled to in Congress, and that we can arrange that matter just exactly as well without the census as with it. I do not understand it to be so. I do not understand that to be the sole object of Congress. But admit for the sake of the argument that it was; now according to official documents which have been placed before the people, emanating from the Governor we are entitled, to say the least, to two members of Congress. If we are entitled to two members, of course it is the duty of this Convention to carve out those two Congressional districts. Such was the course pursued in Wisconsin, Indiana, Alabama, Iowa, Illinois, and by all other Conventions which have assembled under Enabling Acts like ours. If it is our duty to carve out those districts, and make them a part and parcel of our Constitution, it seems to me that we can come to no other conclusion than that it is indispensably necessary for the Convention to ascertain whether the census has been, or is to be taken. If it is not to be taken, we want to know it. Why? That we may resort to the next best course to ascertain about what our population is. If it is to be taken, we want to know that fact, and what the probability is as to the time when the returns can be presented to this body.

Now, as an individual, I know that certain steps are being taken by the Marshal. I know that certain individuals have been in this town for the purpose of receiving orders and directions in regard to the discharge of their duties in that respect. I know that individuals have already gone from this town with instructions to enter upon that work about the first of August. It seems to me not improper that this Convention should call upon the Marshal and ask him, in a respectful manner, what steps he has taken for the purpose of laying that information before us, and what the probabilities of his success. If we do it at all, we ought to do it at once, so that we may proceed to the discharge of our duties. If the census is to be laid before us in three, four, or five weeks, it is our duty to take steps to place the Convention in a condition to avail themselves of it. If this census is not to be taken, let us proceed at once to form a Constitution and carve out our districts according to the best information we can obtain, and authorize the President of this Convention to issue writs for the election of whatever officers should be elected, according to the best information we can obtain.

Mr. HUDSON. It might after a time, perhaps, be necessary to wait upon the Marshal and ascertain at what time the necessary returns can be had, but at present it does not seem to me right and proper to appoint a committee to call upon that officer and ascertain whether he proposes to do his duty. If Congress has provided that he shall do a certain thing at a certain time, we are bound to believe that he will do it, and do it as expeditiously as possible. He cannot probably inform us, at present, how soon it can be effected.

Mr. HAYDEN. I move that the resolu-

tion be laid on the table and made the special order for Monday next at two o'clock.

Mr. FOSTER. I think we had better not be in haste in pressing this matter at this time. The resolution proposes to appoint a committee to await upon the Marshal. Well, sir, the Marshal is a very excellent man I believe, and a good officer. But, sir, this Convention represents the people of Minnesota, and I am not ready at this time to stoop from the pedestal on which we stand to await on him and ask him if he intends to perform his duty. The terms of the Enabling Act make him an inferior officer to act under the direction of the Secretary of the Interior. The Secretary of the Convention has notified him that the Convention has decided in favor of the immediate admission of the State into the Union. We have complied with the law, and I think we had better not proceed further at present. At all events there can be no objection to a short postponement. I move that the Convention adjourn until Monday next at 11 o'clock, A. M.

The motion was agreed to, and thereupon at fifteen minutes past 12 o'clock, the Convention adjourned.

SEVENTH DAY.

MONDAY, July 20, 1857.

The Convention met at 11 o'clock, A. M.

Prayer by the Chaplain, Rev. E. D. NEILL.

The Journal of Saturday was read and approved.

STANDING COMMITTEES.

The PRESIDENT, in pursuance of the resolution of Friday last announced the following standing committees:

On Preamble and Bill of Rights—Messrs. COGGSWELL, WATSON, WINELL, SMITH and MESSER.

On the Legislative Department—Messrs. NORTH, PUTNAM, ANDERSON, AYER, STANNARD, SHELDON and FOLSOM.

On the Executive Department—Messrs. ALDRICH, VAUGHN, HAYDEN, MORGAN and COE.

On Boundaries—Messrs. PERKINS, PUTNAM, WILSON, STANNARD and HARDING.

On State Officers other than Executive—Messrs. BILLINGS, HAYDEN, KING, KEMP and CLEGHORN.

On the Judiciary Department—Messrs. WILSON, GALBRAITH, BILLINGS, NORTH, MCCLURE, STANNARD and MCCANN.

On Organization and Government of Cities, and Villages—Messrs. MORGAN, MURPHY, ESCHLIE, MCCLURE, and HALL.

On Salaries—Messrs. KEMP, KING, BOLLES, DICKERSON and WATSON.

On County and Township Organization—Messrs. THOMPSON, RUSSELL, WINELL, BALDWIN and CEDERSTAM.

On the Elective Franchise—Messrs. CEDERSTAM, WILSON, ESCHLIE, HARDING and NORTH.

On Finance, Taxation and Public Debt—Messrs. STANNARD, PECKHAM, HOLLEY, HALL and DICKERSON.

On Educational Institutions and Interests—Messrs. MESSER, BALDWIN, THOMPSON, GERRISH, MCCLURE and MILLS.

On Banking and Corporations other than Municipal—Messrs. COLBURN, ALDRICH, BATES, BOLLES, THOMPSON, SECOMBE and MCCLURE.

On Exemption of Real and Personal Estate, and the Rights of Married Women—Messrs. SMITH, PHELPS, PECKHAM, LYLE and AYER.

On the Punishment of Crimes—Messrs. DAVIS, DULEY, BUTLER, LOWE and MORGAN.

On Amending and Revising the Constitution—Messrs. HOLLEY, HANSON, COOMBS, HUDSON and VAUGHN.

On Internal Improvements—Messrs. ROBBINS, HANSON, MANTOR, WALKER and PERKINS.

On Impeachments and Removal from Office—Messrs. MESSER, FOLSOM, LOWE and GALBRAITH.

On Public Property and Expenditures—Messrs. SECOMBE, PHELPS, MURPHY, MILLS and MCKUNE.

On Miscellaneous Provisions—Messrs. GALBRAITH, MCCANN, MCKUNE, DAVIS and COE.

On the Arrangement and Phraseology of the Constitution—Messrs. MCCLURE, ANDERSON, FOSTER, BATES and NORTH.

On Schedule—Messrs. FOSTER, COGGSWELL, HUDSON, ROBBINS and SHELDON.

On Printing—Messrs. FOSTER, DULEY and RUSSELL.

On Supplies and Expenditures—Messrs. ALDRICH, GERRISH, NORTH, BUTLER and LYLE.

On Elections and Credentials—Messrs. GALBRAITH, CLEGHORN, COOMBS, MESSER and WALKER.

On the Militia—Messrs. MANTOR, BARTHOLOMEW, and COLBURN.

The PRESIDENT then proceeded to call the order of business, and under that call the following resolutions laying on the table were taken up for consideration.

The resolution offered on Saturday last, by Mr. PERKINS, in reference to incorporating into the Constitution a clause complying with the proviso contained in the fifth section of the Enabling Act.

On motion of Mr. GALBRAITH, the resolution was referred to the committee on Miscellaneous Business.

CENSUS OF THE TERRITORY.

The next resolution in order was the resolution for the appointment of a committee to wait upon the Marshal to make certain inquiries in regard to taking the census.

The resolution was read.

Mr. FOSTER. I trust that resolution will not be adopted. I do not think it is exactly the thing for this Convention to appoint a committee to solicit an inferior officer of the government, one who, by the terms of the law, acts under the Secretary of the Interior, and cannot act independently of him, to perform the duties which he is required by law to do. To do so, it strikes me, would be to step beyond our proper bounds. We should not properly represent the dignity of the people of Minnesota. It will be time enough to call upon him when we ascertain that he is not doing his duty. After sufficient time has elapsed to see whether he is going on to take the census, then we may properly inquire of him how soon we may expect the census returns presented to us.

Mr. McCLURE. I move to amend the resolution by striking out all after the word "ascertain" and to insert in lieu thereof the following—

"At what time in his judgment, he will be able to complete the taking the census of the Territory of Minnesota."

Mr. FOSTER. The adoption of the amendment will put the thing in a much better shape than it was before, but still I remain of the opinion that we had better not make the inquiry. That officer, in all probability, would tell us he did not know; that it was an uncertain matter depending upon the instructions he should receive from his superiors at Washington. I understand he has already answered, in that way, inquiries which have been made by individual members of the Convention. I shall vote for the amendment, and then shall vote against the whole proposition.

Mr. WILSON. I think, with my friend who has just taken his seat, that if we make a call upon the Marshal we shall not know any more about it, after we receive his answer than before. This Convention cannot act upon any information it may ascertain in that way. I do not mean to impute anything wrong to the Marshal. Every member of the Convention knows that the Marshal himself cannot tell, and if he could, he would not probably be very anxious to give us any information beyond what he is required to give. Every man here who knows the present state of things, knows that we will not receive any reliable information, first, because the Marshal himself does not know, and second, because he would not think we have any business to make the inquiry of him. When we absolutely know that we cannot get any information, I do not think it best to make the inquiry.

Mr. SECOMBE. I am in favor of the amendment for the reason that it is one of the duties of this Convention to apportion the future State of Minnesota for legislative, judicial, and perhaps other purposes. If we can get the census contemplated by the Enabling Act laid before us, it would be the best basis we could have for that apportionment. If we are not to have it, it will become incumbent on us to take some measures to procure the basis otherwise. It seems to me proper for this Convention to ascertain at the earliest moment whether there is a probability of our having the benefit of the United States census to aid us in our labors.

Mr. McCLURE. I cannot conceive how this Convention is to lower its dignity by making this inquiry. Now my amendment proceeds upon the supposition that the Marshal intends to do just what he is required by law to do. We have no right, as a Convention, to presume that he intends anything else, and we merely ask him when, in his judgment, the result can be laid before us.

So far as the answer we may receive from him is concerned, I do not think we have any right to presume that he will give us to understand that it is none of our business. The government officers are gentlemen of the highest respectability, courtesy and kindness, and we shall receive from him a courteous answer. Just so far as he is able to ascertain about what time the matter will be completed, he will inform us. As gentlemen have said, it will be absolutely necessary to have some information upon this subject, and I do not know of any better way than to get the judgment of that officer as to the probabilities of his furnishing it. I hope the substitute will be adopted.

Mr. STANNARD. As far as I am acquainted with the individual holding the office of United States Marshal of this Territory, I can vouch for him as a gentleman in every respect; but, sir, it seems to me as if this proceeding was all unnecessary. The Enabling Act itself says that the Marshal of the Territory of Minnesota shall proceed to take the census of the Territory under such instructions as shall be given by the Secretary of the Interior. It is already too early for us to presume that the Marshal of the Territory has received any instructions from the Secretary of the Interior, inasmuch as any instructions from him must await the decision of this Convention relative to the wish of the people of the Territory to become a State. I see then no reason why we should take this step at present.

Mr. COGGSWELL. Being the mover of this resolution, I deem it my duty to say a few words in regard to its propriety, and also to come to the rescue of the United States Marshal to a certain extent. Now I say I do despise this idea of pre-supposing that an United States officer is not a gentleman, and that he would not take delight in furnishing us with such information as may be within his knowledge. The only reasons which have been urged against the passage of this resolution are, first, that we have no right to ask the United States Marshal if he is going to do his duty. It seems to me that this Convention has a perfect right to ask him if he is going to do that which the law requires him to perform—and especially so under the circumstances in which we are placed—and that it is nothing more than proper, and only what we owe to ourselves and to our constituents. Perhaps there might be circumstances in which it would be improper for us to inquire whether a certain officer would perform his duty. But circumstances alter cases, and in my judgment, the circumstances in which we are placed at the present time, require that we should ascertain whether he is going to do that which is required of him by the fourth section of the Enabling Act. It would neither lower our dignity, nor do anything wrong to him.

The second reason is, that he does not know himself, and therefore he cannot inform us. Perhaps it may be that he does not know. I do not pretend to say that he does, but I think it can be satisfactorily shown to members of this Convention that instructions have already been received by him from the Secretary of the Interior upon the presumption that this Convention would pass a vote affirming that it is the wish of the people of the proposed State of Minnesota to come into the Union as a State. As the Enabling Act does not require the Secretary to wait until such a vote is given, there seems nothing improper, on his part, in issuing instructions based upon the supposition that this Convenvention would pass such a vote. Neither would such a course be anything unusual or out of the ordinary course.

Another reason urged against this course is that even though the Marshal had the information, he would not feel inclined to furnish that information to this body. I do not believe that the Marshal is any such kind of a man. I believe he would furnish it to us as soon as to any other body, and that he would take delight in so doing. I know of no other source to go to for this information. If gentlemen will tell me of any other source, I am willing to apply to that. But the Congress of the United States have provided a source, and that source is the United States Marshal. In my judgment, steps are already being taken upon his part for the purpose of accomplishing that object; and if that is so, he will in my judgment, readily and cheerfully inform us. As an individual member, I am desirous of knowing the facts in regard to it, so that I may perform my duties in a manner satisfactory to my constituents.

I do not ask the passage of the resolution simply because I moved it, but because I believe it is due to this body; because I believe there is nothing improper in it; and because I believe the Marshal himself would regard it as a pleasure to furnish this Convention with all the information which lies in his power.

Mr. WILSON. I have the honor to be acquainted with the United States Marshal, and I do not mean to intimate that he will do anything which is not in accordance with his duty, nor do I mean to say, nor do I say, that he is not a gentleman; but I will say that a resolution that asks a man if he is going to do his duty, implies that he is not going to do

his duty; and it is a question I would never answer to any man so long as I were a public officer. It is presumed that every man, and especially every government officer, will do his duty. If, as gentlemen say, it is his duty to take a census immediately, and he has instructions to that effect, he will go on and do his duty.

Now when, by resolution, we as a body ask for anything, it should be because the answer to that resolution would enlighten us as a body, or in some way modify our action as a body; because if it cannot modify our action, we have no right to ask it. If the object be merely individual gratification, let us as individuals, call upon him. Now will our action as a Convention be modified by any answer we may receive? Not at all. Whatever answer may be received, we will take the same course as a body. If we are not going to be influenced by the answer, why ask for anything. It is a course we ought not to adopt. We might as well appoint a committee to obtain papers which are not necessary.

Again, this United States Marshal, I suppose beyond a doubt, believes that we are no Constitutional Convention, and if we call upon him, he will be likely to treat us accordingly. He will treat us as gentlemen, certainly. If I were an officer, believing that a certain set of men assembled together were nothing more than a town meeting, as some have more politely termed us, and they should appoint a committee to wait upon me to see if I were going to take a census as such officer, I would treat them as well as I could, but I should not be likely to inform them what I was going to do. I hope the resolution will not be adopted.

The question was taken on the amendment, and it was not agreed to.

The resolution as amended was then disagreed to.

LIMITATION OF DISCUSSION.

Mr. GALBRAITH by unanimous consent, introduced the following resolution:

Resolved, That no member of this Convention be permitted to speak for a longer time than fifteen minutes, nor more than twice upon any single subject, unless by the unanimous consent of the Convention.

Mr. WILSON. I would suggest to the gentleman that he should move to amend the hour rule by moving to strike out "one hour," and insert "fifteen minutes."

Mr. GALBRAITH. I have no objection to accepting such a substitute.

Mr. WILSON. The seventh rule now reads as follows:

"No member shall speak more than twice on the same question, nor more than one hour at any one time without leave of the Convention, nor more than once until every member who chooses to speak shall have spoken."

I move to strike out the words "one hour," and insert "fifteen minutes."

Mr. GALBRAITH. I accept that as a substitute for my motion.

Mr. ALDRICH. I am in favor of inserting "ten minutes" in the place of "fifteen minutes." As a general thing, I can say all I have to say in ten minutes. I do not know how it may be with others, but in order to test the question I move that amendment.

Mr. FOSTER. I am not myself in favor of long speeches, and I do not think any one can accuse me of a propensity to inflict them. But at the same time there may be occasions in this body when the production of documents, and the making of arguments upon important principles will require more than ten minutes, and I am unwilling to see this reform run into the ground in this way. I think a fall from one hour to fifteen minutes is a pretty good descent. It is often said, "*facilis decensus averni*"—the downward road is very easy; and it would seem so in this case. I think a Constitutional Convention is for debate to a certain extent. The privilege of speech may be abused, but I think fifteen minutes is not very long, and it certainly is short enough.

Mr. NORTH. I have no doubt that subjects will be introduced, upon which we shall want to talk longer than ten or fifteen minutes, and possibly, in the progress of the Convention, individuals may want an hour. Should such occasions arise, perhaps important questions might be discussed freely by unanimous consent, or in committee of the Whole. As a general thing I am in favor of very short speeches upon matters of business, and to make long speeches upon every question which arises in which only a word or two is necessary, I do not think to be good policy. I am in favor of the ten minute rule.

Mr. GALBRAITH. Upon all questions of serious importance I have no doubt the Convention will resolve itself into a committee of the Whole, when there will be latitude of debate, and opportunity for every member to speak as he desires. But in the Convention proper, I think it is the general opinion of this body that it would be well to have as short speeches as possible, and have them pungent and to the point. It will compel us all to think what we want to say, and to present it in due shape. There is no doubt that irritants from outside sources will be applied to this Convention, and one of the objects of this motion was to prevent us from noticing any of them. The business is our own, and to the work of framing a Constitution we should apply ourselves assiduously, and with a will. We can form a good Constitution, as we have the material in the Convention, and we have plenty of good precedents by which to guide ourselves. It seems to me that it is well to have a rule confining ourselves to short speeches. Every member will know when the subject demands more extended remarks, and then unanimous consent can be given.

Mr. WILSON. I am opposed to the whole matter—amendment and all; but as I supposed the resolution would pass I proposed the amendment so that a two-third vote could suspend the rule, which I understand would not be the case of the resolution as originally offered had passed. Those who could speak longest in this Convention are those whom I am most anxious to hear, and who could not speak without giving me some information.

Mr. ALDRICH. I presume gentlemen here will act courteously towards each other, and if any gentleman desires to speak more than ten minutes, he can have the privilege of doing so by unanimous consent. I am willing to extend that courtesy if gentlemen desire it.

Mr. WILSON. I suggest that no gentleman would speak longer than ten minutes, unless he was desirous of doing so.

Mr. COGGSWELL. I concur with the gentleman from Winona (Mr. WILSON) in his views in regard to this matter. I for one am opposed to the whole arrangement. The Constitution of the United States guarantees to me the right of speech, and I do not like to have a Republican Convention undertake to deprive me of that right. And not only that, but it seems to me that if a man desires to make a speech he should be heard. If I want to make a speech longer than my friend ALDRICH does, I should be allowed that privilege, and if he wants to make a short speech, I will not insist upon his making a long one.

Mr. BILLINGS. I am in favor of freedom of speech, but I also believe in the equality of the rights of men. It was never intended that a certain few should govern the rest of mankind. We meet as equals, to work and not to talk. Most men will condense more thought and argument with a ten minutes speech, if they are compelled to confine themselves to that space of time, than they would in an hour under the present rule.

But I do not consider the length of time so essential as I do another part of the rule, and that is that no member shall speak more than once until all others shall have been heard. Our speeches sometimes remind me of speeches of pettifoggers on the trial of a cause. One counsel states an idea, and the opposite counsel wants to reply to the frivolous and irrelevent matter, and the debate goes off entirely upon points which have nothing to do with the decision of the case. If one member takes a different view from what I do, and he answers my argument, it is not necessary for me to defend my position, but some other gentleman can do it for me. I am in favor of the fifteen minute rule, and of a strict observance of that part of the present rule which provides that members who have once been heard shall remain silent until all others shall have had an opportunity of being heard.

Mr. MANTOR. I am opposed to this whole thing. There are questions of grave and vital importance to come before this deliberative assembly, and I am not in favor of regulating the mouths of the members of this Convention by the hands of that clock, but like my friend near me (Mr. COGGSWELL) I am in favor of liberty of speech. If a man can make a speech in ten minutes and weigh all matters which arise on these important matters, we can say "well done good and faithful "servant." But there are men of experience in this body, to whose opinions I should bow with deference, and to whom, upon the important questions which will be discussed here, I should be willing to listen sixty min-

utes, and six time sixty if necessary. It is important and necessary that we should have all the light and information possible, upon these questions, and how shall we get them? By this ten minute rule? Certainly not. But gentlemen say they will extend the time, and give ten minutes longer. But we find ourselves involved in this dificulty, after a gentleman has spoken ten minutes he looks at the clock, and then gazes around this deliberate assembly with an inquiring look, seeming to ask "gentlemen are you willing that I "should speak ten minutes longer?" It looks to me like the height of folly. I have heard gentlemen here to-day, who can make good speeches, say they would consent to a fifteen minute rule. They might be content to be cut off, but the Convention might not be satisfied to have them. We should not be too hasty in our deliberations. Conventions which have met heretofore for the simple revision of Constitutions, have had sessions of six months. If it is from the hasty disposition of gentlemen to get home to take care of their crops that they vote for the ten or fifteen minute rule, this Convention might as well adopt the silent rule, and content themselves with merely giving their votes, and then their object would be soon accomplished and they could go home.

Mr. NORTH. I suppose it is the right of every gentleman to make as long speeches as he desires provided he does not infringe upon the rights of any one else. We have all duties to perform and while some claim the right to speak, others claim the privilege of acting. Should I claim the right to make a long speech upon some subject in which I felt interested, some gentleman might feel restive under it, and be anxious to proceed to business. While it is my privilege to express my ideas, they have rights equal to mine. The people want a Constitution made, and expect us to make it, and I believe that if we make short speeches we shall discharge our duties better, as a general thing, upon most subjects which arise, than we should by making long speeches. When we have reports from committees on important subjects, we may need more time for discussion, and even in such cases unless we can get more time by a two-third vote, I say cut the debates short, then. If the Convention is satisfied that more time is needed, they will grant it. Some of the wisest men this country ever boasted of, were men of few words, and they learned to condense their thoughts and ideas into a small compass.

Mr. McCLURE. It strikes me that it is a bad rule that don't work both ways. Some gentlemen who advocate the passage of this rule, were opposed to a resolution which was discussed to-day, on the ground that it cast the reflection upon the United States Marshal, that he would not do his duty. Now, it seems to me it casts a reflection upon this body to suppose they will trespass upon the patience of this House. I do not know why gentlemen come to the conclusion that any individual will speak longer than necessary. It seems to me that when the Convention becomes wearied with long speeches, that will be the proper time to attend to this matter. Are we to suppose that gentlemen will make speeches when nobody desires to hear? When that time comes, then I shall be ready to vote for such a proposition as this.

Mr. HAYDEN. It is an old adage, "lock the stable before the horse is stolen." I think it the best course to have the rule brought down to a reasonable time at once. It certainly can do no one any harm. I should rather prefer twenty minutes, but still I am willing to go with my friends for fifteen minutes.

Mr. STANNARD. I think there is a mistaken opinion as to the *modus operandi* of this resolution. Its object is only to save the time of the Convention itself, but I believe it is customary in all deliberative assemblies to conduct their heavy debates in committe of the Whole; and there this rule will have no operation.

The question was taken on the amendment limiting the time to ten minutes, and it was not agreed to.

The original motion was then agreed to.

On motion of Mr. KING, at 12 o'clock and fifteen minutes, the Convention adjourned until two o'clock.

AFTERNOON SESSION.

The Convention was called to order at 2 o'clock, P. M.

CENSUS OF THE TERRITORY.

Mr. PERKINS. I understand that it is important that this Convention should have the

census of this Territory before they adjourn, and in case the United States Marshal should disregard the commands of this Convention and refuse to recognize it as the Constitutional Convention, it will be necessary for the Convention to take some other steps to procure an enumeration of the inhabitants. The census should be upon the files of the Secretary's office, if the Territorial officers have performed their duties. If they have done their duty, I think we need not depend upon the United States Marshal or any body else. I offer the following resolution:

"*Resolved*, That a committee of three be appointed to ascertain whether the several assessors in the Territory have filed with the Secretary of the same, lists of the inhabitants of their respective districts, according to section 10, article 9, and chapter 8 of the Revised Statutes; and if so, to procure a certified copy of such lists for the use of this Convention."

If the assessors have done their duty, a census of the Territory was taken in June, and the returns are on file in the office of the Secretary of State.

Mr. DAVIS. It seems to me that the resolution is a little premature. It takes the ground in the first place that the Marshal of the Territory will not do his duty, and that we must as a matter of necessity look to this course, in order to find out the population of the Territory. It seems to me that it would be better to wait until we ascertain that we are to have no census taken by the proper authority, and then it will be time enough to resort to other means to obtain the information. I object to the resolution.

The resolution giving rise to debate, was laid over under the rules.

Mr. KING. I offer the following resolution:

"*Resolved*, That the committee on Elections be instructed to insert a registry clause requiring all legal voters to have their names registered in the county records of the county in which they live; to receive a certificate of registry stating the date, book, and page containing said registry, and without which no vote will be received when challenged—said clerk to be paid by State revenue."

The object of my resolution is simply to incite inquiry in the minds of members as to the best mode of preventing frauds in elections. As matters now are, we all know that it is difficult to ascertain a man's right to vote where there are so many strangers coming and going. There might be an additional provision requiring every man's certificate to be filed in the ward, precinct, or district in which he proposes to vote, or that there be a file of those certificates furnished to the Judges of Election in each precinct.

The resolution was laid over under the rules.

ONE DAILY SESSION.

Mr. COLBURN. I offer the following:

"*Resolved*, That this Convention hold but one session per day, and that the hour of meeting be 9 o'clock, until otherwise ordered."

Mr. FOSTER. Would it not be wise to regulate that matter from day to day as circumstances may require? I think we had better take no action upon it at the present time.

The resolution was laid over under the rules.

ORGANIZATION OF THE CONVENTION.

Mr. COGGSWELL. If there is no other business before the Convention at this time, I ask unanimous consent to make a brief statement of facts, connected with myself as a member of this Convention, and the Convention itself as a body. (Cries of "leave, leave.") I received a letter this morning from one of my constituents residing in Steele County, stating that a report had been circulated in that section of the country, that the Republican members of this Convention had made an agreement with the Democratic members, not to attempt to organize until 12 o'clock, M., on the 13th instant; that the Republican members had violated that contract, and had organized at half past 11 o'clock, in the forenoon; had taken forcible possession of the Hall of the House of Representatives, and refused to allow the Democratic members their seats in Convention. The question was asked me whether that statement was true.

As it is impossible for me to answer him in such a manner that all my constituents may know my views, I desire to give here my understanding of the whole transaction from begining to end. And I wish it distinctly understood by every member of the Convention, that whatever remarks I make, I shall make them upon my own responsibility; and if they do not meet the concurrence of other

gentlemen, I ask that they may be entirely absolved from responsibility.

I propose to speak, in the first place, of the arrangement which was made between the Republicans and the Democrats as to the time of the organization of this Convention, and the time when the Republicans came into this building, and in what manner, and for what purpose.

Second: I propose to speak of the rights of the Secretary of the Territory of Minnesota as such when he undertakes to organize a Constitutional Convention under our Enabling Act, and of his rights as a member of this Convention.

Third: I propose to speak of the precedents which have come within my knowledge in regard to the right of such an officer to call a body of this kind to order; and the rights of members holding certificates of election which are fair upon their face, to participate in the temporary organization of such a Convention.

First: as to the agreement which was made between the Democratic and Republican members of this body. I arrived in this city late on Saturday night of the 11th inst., and ascertained that a caucus had been held by the Republican members who had reached here earlier, at which it was resolved that no attempt should be made to organize this Convention on their part, until the Democratic members had been consulted and their wishes made known. I was not at that caucus, and as a matter of course, what transpired there is a matter of hearsay with me. I do know, however, that there was a statement to that effect, which was reduced to writing and signed by certain Republican members of this Convention, and handed to certain Democratic members with the understanding that they should sign and return the same. And I am justified in saying that instead of that instrument being signed and returned, another proposition was returned, which is in these words:

"GENTS:—The Democratic members of the Constitutional Convention now present, will be governed as to time and place of meeting of said Convention by the usual rules governing parliamentary bodies in the United States.

(Signed) M. SHERBURNE,
C. L. CHASE,
W. A. GORMAN.

To Messrs. BALCOMBE and others."

Now, sir, if I understand the "usual" hour of meeting of Constitutional bodies of this kind, it varies in different States; and when this paper was returned to the Republican members who had signed the first proposition, the idea struck them, and not only struck them, but others who heard that answer read, that it would admit of some little doubt of construction, and that it was not exactly in accordance with good faith to say the least of it, to withhold the original document and return one in its place which could be construed as circumstances might require. After consultation with various Republican members of the Convention who were here, it appeared to be the unanimous conclusion that near the hour of 12 o'clock on the morning of the 13th, the Republican members should come into this Hall or this Capitol, not for the purpose of organizing the Convention, but for the purpose of preventing the Democratic members from organizing it without our knowledge or concurrence. And, sir, here I wish it distinctly understood, that our sole object for so doing was to prevent our being taken by surprise.

We believed in guarding well the outposts that the citadel might be safe.

I do not know the exact hour when other members came in here, but about the hour of one o'clock on that morning I came into this building, and went into the Council Chamber, where I found a considerable number of Republican members sitting upon seats, and talking upon various subjects. We remained there (at least some of us) in an unorganized condition until near daylight, when I left the building for the purpose of obtaining my breakfast.

I know nothing of what took place after until I returned, which was about eight o'clock, A. M., when I found the door of this Hall open and several Republican members here, in an unorganized condition, some talking about one thing and some another. We then, most of us took our seats, and continued in them until about a quarter before twelve o'clock, M. About that time, a portion of the Democratic members came into the Hall in a body. I will not say how many, for the reason that most of them were strangers to me—but as soon as they came in Mr. CHASE rose in that desk, rapped upon it, and called the Conven-

tion to order. About the same time Mr NORTH also stepped into the desk and called the Convention to order; which one called to order first I will not pretend to say. My judgment is that there were but few seconds difference. What motion was put, I will not pretend to say, for the confusion and noise was so great I could not tell, but I heard in answer to a certain noise, or a certain sound which I supposed emanated from the lips of Mr. CHASE, a kind of unanimous expression from the Democratic members, in regard to adjournment. As soon as that took place, these Democratic members left the Hall.

Now, sir, I wish to ask every member within the sound of my voice, if they did not understand there was a solemn agreement made between the Democratic and Republican members of this Convention, that there was to be no attempt at organization until 12 o'clock, M., which agreement was consummated about 7 o'clock on Monday morning? It is unnecessary perhaps for the members who were here to prove that there was a contract of this kind, but for the benefit of my constituents at home, I will prove it, and prove it not only by a writing signed by their leading men, but by their leading organ of this City. First I will produce the writing, which is in these words:

JULY 13, 1857.

Resolved, That the Democratic members of the Constitutional Convention in caucus, do hereby affirm the position of the Democratic members last evening, and will concur in the proposition to meet at 12 o'clock, M., this day, the usual hour for the assemblage of parliamentary bodies in the United States.

(Signed) M. SHERBURNE, Chairman
C. L. CHASE, Secretary.

I now propose to introduce another witness, the *Pioneer and Democrat*, for the purpose of proving conclusively this same fact:

"Although 12 o'clock, M., on Monday was the time *agreed upon* on which the Convention should be called to order—"

Admitting that there was an agreement to that effect, and that the time mentioned in that agreement was twelve o'clock—

"yet the Black Republicans took possession of the Hall of the House of Representatives on Sunday night, fifteen hours prior to the time," &c.

Now, sir, I have proved conclusively by an instrument of writing under the hands of their leading men, and also by their organ of this city, that this Convention should not be organized until 12 o'clock, M., on Monday, the 13th instant.

And now I arraign the Democratic members, and charge them with being the violators of this agreement, and this charge I will prove, sir.

There are three ways, Mr. PRESIDENT, in which a man can prove a fact—first, by the introduction of a witness which he himself has brought upon the stand; second, by witnesses which the opposite party have introduced; and third, by their own admission.

I propose first to adopt the latter course, and show from their own organs that they were its violators and not us.

My witness is the same paper from which I have already read—the *Pioneer and Democrat*.

In giving a statement of the proceedings of the Convention of that day, it says, "*At "quarter to 12 o'clock, A. M.*, Hon. C. L. "CHASE, Secretary of the Territory of Minne- "sota, and Mr. NORTH, of Rice County, simul- "taneously entered the Speaker's desk and "called the Convention to order."

I also call upon every Republican member of this Convention to bear me witness, when I say that about seventeen minutes before twelve o'clock, and before any attempt was made on the part of the Republicans to organize, the Democratic members marched into this Hall in a body, and through Mr. CHASE, sought to secure the preliminary organization. Sir, such are the facts.

I next propose to speak of the right of the Secretary of the Territory, as such, to call this Convention to order. The Organic Act of the Territory of Minnesota, which created the office of Secretary, has defined its powers and prescribed its duties. The third section of the Organic Act, says:

"*And be it further enacted*, That there shall be a Secretary of said Territory, who shall reside therein, and hold his office for four years unless sooner removed by the President of the United States; and he shall record and preserve all the laws and proceedings of the Legislative Assembly hereinafter constituted, and all the acts and proceedings of the Governor in his Executive department; he shall transmit one copy of the laws and one copy of the Executive proceedings, on or before the first day of December in each year, to the President of the United States, and at the same time two copies of the laws to the Speaker of the House of Repre-

sentatives and the President of the Senate for the use of Congress. And in case of the death, removal or necessary absence of the Governor from the Territory the Secretary shall be and he is hereby authorized and required to execute and perform all the powers and duties of the Governor during such vacancy or necessary absence or until another Governor shall be duly appointed to fill such vacancy.

In that section, we find his duties, his rights and his powers clearly and distinctly marked out; but among those powers nothing can be found giving him authority to organize or call to order a Constitutional Convention. Neither can any such power or authority be found in any law which has been passed by Congress or the Territorial Legislature of Minnesota. Hence, I say that the Secretary of the Territory, as such, has no more power, has no more right, has no more authority to call such a Convention to order, than any individual who may happen to be passing along the street. This, sir, in my judgment would settle everything connected with the organization of this Convention. But we understand it is claimed that he had not only the right to call the Convention to order as Secretary of the Territory, but as a member of this Convention.

Sir, I recognize most fully the right of every person who has been duly elected, and who has a certificate of his election as a member, to call this body to order. The right of such a member must be recognized. But, sir, had he any evidence to show that he was a member of this Convention? Not any at all, sir. He had no certificate of election, and upon this point the rules and regulations of parliamentary practice are well settled. The best authority which I know upon this subject is Cushing's Law and Practice of Legislative Assemblies, which is recognized as the highest parliamentary authority in this country. Upon this subject he says:

"These principles are as follows: First, that every person duly returned is a member, whether legally elected or not, until his election is set aside. Second, that *no person who is not duly returned is a member*, even though legally elected, until his election is established."

Mr. CHASE at that time, therefore, could have no claim as a member. And I have shown that neither as Secretary of the Territory, nor as an individual who comes here without any certificate as member, which is fair upon its face, had he any right to call this Convention to order.

Again, we find that almost invariably where the Secretary of a Territory has called such a body to order, it has been by virtue of some law which authorized returns to be made to his office, and he being the keeper or custodian of these returns, has been suffered to perform that duty. But under Enabling Acts like ours, in all the Territories, as far as my knowledge extends, the universal practice and custom has been for some member who has a certificate which is fair upon its face, to call the Convention to order. So that I say even upon the ground of precedent he had no such authority.

Now, sir, if I understand the position which we at present occupy, it is substantially this: We have met here as delegates, duly elected, with certificates in our possession which are fair upon their face. We met at the time appointed by law. We made an agreement with our Democratic brethren, which agreement was violated by them in the first instance. If we organized before twelve o'clock it was because we were compelled so to do in order to preserve our rights—they having violated the agreement in the first instance by an attempt to organize, of course we had no other alternative left.

Then, I say, that as we stand here before the people of Minnesota, we stand justified upon the ground that we have done everything which the terms of our agreement required—have done everything that honor dictated.

But, sir, it is insisted that we should not have allowed certain gentlemen from Hennepin county their seats.

I tell you, Mr. PRESIDENT, we had no alternative in this matter—we had no right to say that they should not take their seats in the first instance and participate in our proceedings up to such time as their seats might be contested. They had certificates of election, and we had no right to go behind those certificates, when no one contested their seats and pronounce their election fraudulent and void, simply because some newspaper said they were. If it were true that these gentlemen were not legally and properly elected, why not appear before the Convention at the proper time, and in the proper manner, and make it appear? No attempt of this kind

was made, and hence we had no right to say to these gentlemen, "You shall not partici-"pate with us in our proceedings for the rea-"son that your certificates of election were "wrongfully obtained, and the reason why we "know it is because the *Pioneer and Demo-"crat* says so."

Mr. PRESIDENT, who ever heard of newspaper rumor being received in courts of justice, or conventional bodies in preference to the official statements of properly constituted officers acting under the sanctions and solemnities of an oath? The idea is too preposterous to be thought of.

Sir, the doctrine of allowing the majority to rule is abandoned, and the war cry now raised is "rule or ruin."

If, therefore, we are compelled to go before the people of Minnesota upon this issue, let us go before them stating the facts as they occurred. If we are charged with being revolutionists, if we are charged with being fanatics, let us have in our hands a clear statement of these truths. I understand to a certain extent, the Republican sentiment of this Territory, and I know that sentiment demands and wants nothing more than what is right and what is just. I know that the Republicans of this Territory demand of others nothing that is not founded upon principles of honor and justice. I know that the members of this body have demanded nothing that was not justly, legally and honorably due them. Mr. PRESIDENT, no man feels more sensitive than I do, when charged with being violators of the Constitution, and with having no regard for the federal compact which should bind us all together. For one, I say that I stand here to day, having taken the oath to support that instrument, and I intend to carry out its provisions so far as lies within my power. Sir, the Republican party acknowledge fealty—first, to the God of Heaven, and second, to the Federal Constitution; and I hurl back the charge which has been made against us as Republicans, of desiring to trample under foot the provisions of that sacred instrument, as totally, knowingly, and wickedly false.

Sir, I love the Union of the American States; I love the Federal Constitution. To that instrument we owe all that we are—all that we hope to be. Under that instrument we have increased from four millions of self-sacrificing, patriotic inhabitants, to thirty millions of proud and prosperous people. Under that instrument we have extended our domains from the Mississippi to the Rocky Mountains, and from the Rocky Mountains to the Pacific Ocean. Under that instrument we have contended successfully with the British Lion and sent him howling across the waters of the sea. And may God grant that when the rays of the last setting sun shall sink back into eternal night, no longer to gladden the face of man, its crimson hue may be reflected back upon those extended Heavens that still cover the *United* States of America.

LIST OF STANDING COMMITTEES.

On motion of Mr. GALBRAITH—

Ordered, That the committee on Printing be instructed to procure the printing of 100 copies of the list of Standing Committees.

And then on motion of Mr. KING, at three o'clock and fifteen minutes, the Convention adjourned.

EIGHTH DAY.

TUESDAY, JULY 21st, 1857.

The Convention met at 9 o'clock, A. M.

The Journal of yesterday was read and approved.

PREAMBLE AND BILL OF RIGHTS.

Mr. COGGSWELL, from the committee on the Preamble and Bill of Rights, made the following report, which was read a first and second time, viz:

PREAMBLE. We the people of the State of Minnesota, grateful to God for our civil and religious liberty and desiring to perpetuate its blessings and secure the same to ourselves and our posterity, do ordain and establish this Constitution:

ARTICLE I—DECLARATION OF RIGHTS.

SECTION 1. All men are born equally free and independent, and have certain inherent rights; among these are life, liberty and the pursuit of happiness. To secure these rights, governments are instituted among men deriving their just powers from the consent of the governed.

SEC. 2. There shall be neither slavery nor involuntary servitude in this State except for the punishment of crime, whereof the party shall have been duly convicted.

SEC. 3. Every one may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of such right; and no laws shall be passed to restrain or abridge the liberty of

speech or of the press. In all criminal prosecutions or indictments for libel, the truth may be given in evidence: and if it shall appear to the jury that the matter charged as libelous be true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

SEC. 4. The right of the people peaceably to assemble to consult for the common good and to petiiion the government or any department thereof shall never be abridged.

SEC. 5. The right of trial by jury shall remain inviolate; and shall extend to all cases at law without regard to the amount in controversy; but a jury trial may be waived by the parties in all cases in the manner prescribed by law.

SEC. 6. Excessive bail shall not be required; nor shall excessive fines be imposed; nor shall cruel and unusual punishments be inflicted.

SEC. 7. In all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witness face to face; to have compulsory process to compel the attendance of witnesses in his behalf; and in prosecutions by indictment or information, to a speedy public trial by an impartial jury of the county or district, wherein the offence shall have been committed, which county or district shall have been previously ascertained by law.

SEC. 8. No person shall be held to answer for a criminal offence unless on the presentment or indictment of a grand jury, except in cases of impeachment or in cases cognizable by Justices of the Peace, or arising in the Army or Navy, or in the militia when in actual service in time of war or public danger; and no person for the same offence shall be put twice in jeopardy of punishment nor shall be compelled in any criminal case to be a witness against himself. All persons shall, before conviction be bailable by sufficient sureties, except for capital offences when the proof is evident or the presumption great; and the privilege of the writ of habeas corpus shall not be suspended unless when in case of rebellion or invasion, the public safety may require.

SEC. 9. Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character; he ought to obtain justice freely and without being obliged to purchase it; completely and without denial, promptly and without delay, conformably to the laws.

SEC. 10. Treason against the State shall consist only in levying war against the same or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 11. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

SEC. 12. No bill of attainder, ex-post facto law, nor any law impairing the obligation of contracts shall ever be past; and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 13. No private property shall be taken for public use without just compensation therefor.

SEC. 14. All lands within the Sate are declared to be allodial, and feudal tenures are prohibited. Leases and grants of agricultural land for a longer term than fifteen years, in which rent or service of any kind shall be reserved, and all fines and like restraints upon alienation reserved in any grant of land hereafter made, are declared to be void.

SEC. 15. No distinction shall ever be made by law between resident aliens and citizens in reference to the possession, enjoyment or descent of property.

SEC. 16. No person shall be imprisoned for debt arising out of or founded upon any contract express or implied.

SEC. 17. The right of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for the payment of any debt or liability hereafter contracted.

SEC. 18. The right of every man to worship God according to the dictates of his own conscience shall never be infringed; nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. Nor shall any control of, or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishment or mode of worship. Nor shall any money be drawn from the Treasury for the benefit of religious societies, or religious or theological seminaries.

SEC. 19. No religious test or amount of property shall ever be required as a qualification for any office of public trust under the State. No religious test or amount of property shall ever be required as a qualification of any voter at any election in this State; nor shall any person be rendered incompetent to give evidence in any court of law or equity in consequence of his opinion upon the subject of religion.

SEC. 20. The military shall be in strict subordination to the civil power.

SEC. 21. Writs of error shall never be prohibited by law.

SEC. 22. No lottery shall ever be authorized by this State, and the buying and selling of lottery tickets is hereby prohibited.

SEC. 23. Every law enacted by the Legislature shall embrace but one object, and that shall be expressed in the title.

SEC. 24. Any citizen of this State who shall,

after the adoption of this Constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall be deprived of holding any office of profit or trust under this State.

SEC. 25. The criminal code shall be founded on principles of reformation, and not of vindictive justice.

SEC. 26. The people shall have the right to bear arms in defence of themselves and State.

SEC. 27. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance, frugality and virtue, and by a frequent recurrence to fundamental principles.

All of which is respectfully submitted.

AMOS COGGSWELL.
GEO. WATSON.
T. D. SMITH.
B. E. MESSER.

PRINTING OF REPORTS.

The PRESIDENT suggested that no order had yet been made in reference to printing the reports of the various standing committees.

Mr. ALDRICH. I do not know as it will be necessary to print every report of the committees, but it is important that the report just made should be. I move that the report be laid on the table, and that one hundred copies be printed for the use of the Convention.

Mr. PERKINS moved to substitute one hundred and fifty copies.

Mr. ALDRICH. I accept the amendment. My friend, [Mr. MORGAN], suggests two hundred copies so that our friends at the other end of the capitol may have the benefit of them, if they desire.

Mr. HAYDEN. I move to amend so as to require that two hundred copies of each report of the standing committees be printed.

Mr. ALDRICH accepted the amendment.

The resolution, as thus modified, was agreed to.

CONSIDERATION OF PENDING RESOLUTIONS.

Under the order of business of the day the following resolutions were taken from the table for consideration:

The resolution offered by Mr. PERKINS yesterday for the appointment of a committee to ascertain whether the several assessors of the State have filed with the Secretary of the Territory, lists of the inhabitents of their several districts, &c.

Mr. PERKINS. I hope that the resolution will pass, as I desire this Convention to neglect no means of bringing before it an authentic census of the Territory. The Marshal, Mr. GERE, has informed members that he has received no instructions whatever from the Secretary of the Interior, and that he can give no information as to the time when he can have the census taken. If the assessors of the whole Territory have performed their duties, as the assessors of the southern portion have, there was a census placed on the files of the Secretary's office by the first Monday of July. I see no harm, at least, to result from the appointment of this committee to ascertain the fact.

Mr. DICKERSON. I think that the census taken by the assessors is not such as is required for our use. That census merely specifies the number of each family, male and female, and the number of persons subject to military duty. We need something more than that for our purposes.

Mr. MORGAN. I think this resolution unnecessary. We have a standing committee on "Schedules," and it is the duty of that committee, as I understand it, to make inquiries to ascertain such facts as may enable them to form a correct basis of representation. If it should be necessary to have a resolution of this body to enable them to procure from the Secretary of State this information, the resolution should emanate from that committee. I dislike very much the practice of sending out committees of this body for various purposes, unless it is absolutely necessary to do so. It is in the power of any member, and it is the right of every individual, to obtain from the Secretary's office, a copy of any paper which exists there. Until that privilege is refused, we ought not to act as though we thought it necessary to appoint a committee to obtain that which every one has a right to have.

Mr. HAYDEN. I move that the resolution be laid on the table.

The motion was agreed to, and the resolution was laid on the table.

The next resolution taken up, was that offered by Mr. KING yesterday, instructing the committee on elections to insert a registry

clause in the Constitution. The resolution was read.

Mr. COLBURN. I move to amend that resolution by striking out the word "insert," and insert in lieu thereof the words, "enquire into the expediency of inserting."

Mr. KING accepted the amendment.

Mr. SECOMBE. It seems to me that either the gentleman who offered that resolution or myself has a misconception as to the duties of the committee on elections and credentials. That commitee as I understand, is simply a committee on the election and credentials of members of this Convention. If so, it is not the appropriate committee to which to refer the subject matter of the resolution. I therefore move that the resolution and the subject matter thereof be referred to the committee on the Elective Franchise.

Mr. WILSON. I am opposed to this, as I shall be to all movements of this sort. There is a standing committee now appointed whose duty it is to examine this very matter. This resolution anticipates their actions, and seeks to instruct them in regard to that which it is their duty to investigate and report upon to this Convention. I know that nothing discourteous towards that committee is intended by the mover of the resolution, because he would not intentionally be discourteous towards anybody, yet it savors of discourtesy to that committee. We should leave the matter alone until we see whether the committee take action upon it. I shall therefore oppose the resolution, and oppose the reference of it.

On motion of Mr. HARDING, the resolution was laid upon the table.

The next business taken from the Speaker's table, was the following resolution offered by Mr. COLBURN yesterday.

"*Resolved*, That this Convention hold one session per day, and that nine o'clock be the hour of meeting until otherwise ordered."

Mr. COLBURN. As some objection was made yesterday to this resolution, I will simply state that my object was that members might understand definitely what were to be our regulations as to the time and length of our sessions. Now that the standing committees are appointed, they will require a portion of the day to attend to their duties, as such, and if it shall be determined that we will have but one session per day, and that at nine o'clock, the committees will know what time they can have to devote to their business. I think that will be better than it would be to adjourn from day to day, as we might think circumstances required.

The resolution was adopted.

PAPERS FOR OFFICERS OF THE CONVENTION.

Mr. WILSON by unanimous consent, introduced the following resolution, which was read, considered and agreed to:

"*Resolved*, That the officers of the Convention be entitled to receive newspapers to the same number and under the same rule as members of the Convention."

RECONSIDERATION.

Mr. SECOMBE. I move to reconsider the vote by which the resolution, offered by Mr. McKUNE a day or two since in reference to the proviso in the fifth section of the act of Congress, was referred to the committee on Miscellaneous Provisions. I make the motion so as to have the resolution referred to the committee on Public Property and Expenditures.

The motion to reconsider prevailed, and then the resolution was then referred to the committee on Public Property and Expenditures.

BOOKS FOR MEMBERS

Mr. LOWE. I wish to submit a proposition to instruct the Secretary of the Convention to procure for each member a copy of the Constitution of the United States. I feel the want of it very much myself, and upon consideration with others, I find they entertain the same view I do upon the subject. I make the motion.

Mr. WILSON. That proposition stands upon the same basis as the one furnishing papers to the members of the Convention, and as I opposed that, I shall oppose this, and I do hope there will be found no member voting for any resolution of this sort. If we procure a copy of the Constitution for members, why should we not also procure other books of which they stand in need; why not procure a copy of Webster's Dictionary, which we need just as much in our labors here, as we do the Constitution. And I have no doubt some would need Murray's old Grammar—for in my opinion that is the best thing of the kind out yet. The whole thing is radically wrong. The people did not send us here to

buy books at their expense. They supposed we would procure them for ourselves if we needed them. I need indeed a library to consult, worth hundreds of dollars, and shall I procure that at the expense of the people of the Territory? I hope we shall not have a vote here that will show any great minority even in favor of any such thing.

Mr. MORGAN. I have had occasion to make some inquiries in regard to procuring that book here at this time, and I ascertained this morning that an individual sent for some copies about a week ago, and that it would be two weeks yet before they would arrive. If we now instruct the Secretary to procure copies for us, they could not be obtained in time for our use.

The question was put on the motion, and it was decided in the negative.

On motion of Mr. NORTH, (at ten o'clock and forty-five minutes) the Convention adjourned.

NINTH DAY.

WEDNESDAY, JULY 22d, 1857.

The Convention met at nine o'clock, A. M.

Prayer by the Chaplain, Rev. E. D. NEILL.

A quorum being present, the Journal of yesterday was read and approved.

STATIONERY FOR MEMBERS.

Mr. ALDRICH from the committee on Supplies and Expenditures, reported that the committee had made arrangements with Mr. VON HAMM to furnish the stationery ordered by this Convention—that is five dollars worth to each member, and such quantity as the Secretary and Reporter shall require.

ORGANIZATION OF REPRESENTATIVE BODIES.

Mr. FOLSOM offered the following resolution, which giving rise to debate, was laid over under the rules, viz:

"*Resolved,* That a committee of five be appointed, of which the Chairman of the Convention be *ex-officio* Chairman, and the remaining members to be chosen by ballot, whose duty it shall be to report to this Convention the proper measures for obviating, in the assembling of any future Convention, the difficulties which have occurred in the organization of this,—who shall indicate proper means by which the organization shall be effected, and the manner in which the credentials shall be authenticated. It shall also be their duty to make similar provisions with regard to all representative bodies so as to secure their organization in a manner as free as possible from all party bias."

PRINTER TO THE CONVENTION.

On motion of Mr. GALBRAITH—

"*Ordered,* That the election of Printer to this Convention be made the special order for to-day at 10 o'clock."

CALL OF THE CONVENTION.

Mr. GALBRAITH, at nine o'clock and fifty-five minutes, moved that there be a call of the Convention.

The motion was agreed to, and the roll being called, Messrs. FOSTER, HALL, MILLS, MURPHY, PERKINS, PUTNAM, THOMPSON, WALKER, and SHELDON, failed to answer to their names.

Mr. HAYDEN moved that all further proceedings under the call be dispensed with.

The motion was lost and the Sergeant-at-Arms was directed to bring in the absentees. After an interval of thirty minutes—

Mr. STANNARD moved that the vote by which the Convention refused to dispense with all further proceedings under the call, be reconsidered.

The motion was agreed to, and then all further proceedings under the call were dispensed with.

Pending the call Mr. SECOMBE stated that Mr. WALKER was sick and unable to be in attendance upon the Convention to-day.

Mr. STANNARD, at ten o'clock and thirty minutes, moved that the Convention adjourn, which motion was not agreed to.

After a few minutes, during which time no business was transacted—

Mr. GALBRAITH moved that there be a call of the House: which motion was agreed to.

The roll being called, Messrs. FOSTER, MURPHY, PERKINS, PUTNAM, THOMPSON, WALKER, and SHELDON, failed to answer to their names.

Mr. STANNARD moved that all further proceedings under the call be dispensed with, which motion was not agreed to.

The Sergeant-at-Arms was directed to bring in the absentees.

After a few minutes, during which time several absent members appeared—

Mr. GALBRAITH moved, at eleven o'clock, to reconsider the vote by which the Conven-

tion refused to suspend further proceedings under the call.

The motion was agreed to, and then all further proceedings under the call were dispensed with.

ELECTION OF PRINTER.

On motion of Mr. GALBRAITH the Convention proceeded to the election of a Printer to the Convention, and the roll being called, there were 55 votes, all of which were cast for Messrs. OWENS & MOORE of St. Paul; whereupon they were declared duly elected printers to the Convention.

ORGANIZATION OF EXECUTIVE DEPARTMENT.

Mr. ALDRICH, from the committtee on the Executive Department, made the following report which was read a first and second time and laid upon the table to be printed, viz:

SECTION 1. The executive power shall be vested in a Governor who shall hold his office for two years. A Lieutenant-Governor shall be elected at the same time, and for the same term.

SEC. 2. No person except a citizen of the United States, shall be eligible to the office of Governor, nor shall any person be eligible to that office who has not attained the age of thirty yeare, and who shall not have been one year next preceding his election, a resident within the State, or resident at the time of the adoption of this Constitution.

SEC. 3. The Governor and Lieutenant Governor shall be elected by the qualified voters of the State at the times and places of choosing members of the Legislature. The persons respectively having the highest number of votes for Governor and Lietenant-Governor, shall be elected; but in case two or more shall have an equal and the highest number of votes for Governor or Lieutenant-Governor, the two Houses of the Legislature at its next annual session, shall forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for Governor or Lieutenant-Governor.

SEC. 4. The Governor shall be Commander-in-Chief of the military and naval forces of the State. He shall have power to convene the Legislature on extraordinary occasions; and in case of invasion or danger from the prevalence of contagious disease at the seat of Government, he may convene them at any other suitable place within the State. He shall communicate by message to the Legislature at every session the condition of the State, and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of Government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature, and shall tske care that the laws are faithfully executed. He shall at stated times receive for his services a compensation to be established by law, which shall neither be increased nor diminished after his election and during his continuance in office.

SEC. 5. The Governor shall have power to grant reprieves, commutations and pardons after conviction, for all offences, except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon or commute the sentence, direct the execution of the sentence, or grant a further reprieve. He shall annually communicate to the Legislature each case of reprieve, commutation or pardon granted; stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the dates of the commutation, pardon or reprieve, with his reason for granting the same.

SEC. 6. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State in time of war, at the head of a military force thereof, he shall continue Commander-in-Chief of all the military force of the State.

SEC. 7. The Lieutenant-Governor shall possesa the same qualifications of eligibility for office as the Governor. He shall be President of the Senate, but shall only have a casting vote therein. If during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the President of the Senate shall act as Governor until the vacancy be filled, or the disability shall cease.

SEC. 8. The Lieutenant-Governor shall, while acting as such, receive a compensation which shall be fixed by law, and which shall not be increased or diminished during his continuance in office.

SEC. 9. Every bill which shall have passed the Senate and the House of Representatives, shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with his objections to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, two thirds of the members present shall sgree to pass the bill, it shall be sent, together

with the objections, to the other House, by which it shall likewise be considered, and if approved by two-thirds of all the members present, it shall become a law, notwithstanding the objections of the Governor. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the members voting for and against the bill, shall be entered on the journal of each House respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Legislature shall, by their adjournment, prevent the return; in which case it shall not be a law.

And then on motion of Mr. GALBRAITH, (at eleven o'clock and fifteen minutes) the Convention adjourned.

TENTH DAY.

THURSDAY, July 23, 1857.

The Convention met at nine o'clock, A. M.

The Journal of yesterday was read and approved.

REPORT OF COMMITTEE.

Mr. SECOMBE, from the committee on Public Property and Expenditures, made the following partial report, which was read a first and second time, and laid upon the table to be printed, viz:

THE committee on Public Property and Expenditures, to whom was referred a resolution in relation to the propositions of Congress contained in the fifth section of the Enabling Act, and the subject matter thereof, have given their consideration to the same, and beg leave to report the accompanying draft of an article on the said subject; and ask leave to report at a future time on the other matters properly coming before them.

PROPOSITIONS OF CONGRESS.

The propositions contained in the fifth section of the Act of Congress, entitled "An Act to authorise the people of the Territory of Minnesota to form a Constitution and State Government, preparatory to their admission into the Union on an equal footing with the original States," and each of the same, are hereby freely accepted, ratified and confirmed: and it is hereby ordained, irrevocably without the consent of the United States, that the State of Minnesota shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations Congress may find necessary for securing the title in said soil to *bona fide* purchasers thereof; and that no tax shall be imposed on lands belonging to the United States; and that in no case shall non-resident proprietors be taxed higher than residents.

ORGANIZATION OF REPRESENTATIVE BODIES.

Under the order of business, the resolution offered by Mr. FOLSOM yesterday in reference to the mode of organizing representative bodies, was taken up and reported to the Convention.

Mr. WILSON. Will not the subject matter of that resolution come directly and naturally before the committee on Amending and Revising the Constitution? I think it will, and that it includes a very great part of their duty. To adopt the resolution would be to take away the duties of a standing committee and give them to a select one. I am opposed to that, and especially as it takes all their duties away.

Mr. COLBURN. I agree fully with the gentlemen from Winona. I therefore move that the resolution, and the subject matter thereof, be referred to the committee on Amending and Revising the Constitution.

The motion was agreed to.

Mr. GALBRAITH. In order that the committees may have time to work, I move that the Convention now adjourn.

Mr. SECOMBE. I would inquire if the report of the committee on the Preamble and Bill of Rights has been printed.

The PRESIDENT. The chair is informed that it has been, and will be here in a few minutes.

Mr. GALBRAITH. It will be impossible to act upon it to day, even if it is printed. We shall need time for examining it outside of the Convention, before we proceed to act upon it. I think we had better adjourn.

The motion to adjourn was not agreed to.

LEGISLATIVE DEPARTMENT.

Mr. NORTH, from the committee on the Legislative Department, made the following report, which was read a first and second time and laid upon the table to be printed, viz:

THE committee on the Legislative Department beg leave to report the following article for incorporation into the Constitution:

SEC. 1. The legislative power of this State shall be vested in a Senate and House of Representatives, which shall be designated as the *Legislature of the State of Minnesota.*

SEC. 2. The Senate shall consist of not less than twenty-four, nor more than thirty-two members. The House of Representatives shall consist of not less than sixty-four, nor more than one hundred members.

SEC. 3. In the year one thousand eight hundred and sixty-five, and every tenth year thereafter, an

enumeration of all the inhabitants of this State shall be made in such manner as shall be directed by law; and in the year one thousand eight hundred and sixty, and every tenth year thereafter, the census taken by the authority of the Government of the United States, shall be adopted by the Legislature as the enumeration of this State; and at the first regular session of the Legislature, holden after the returns of each census herein provided for are made, the several districts for the election of senators and representatives shall be established and apportioned by law according to the number of inhabitants.

SEC. 4. The members of the House of Representatives shall be chosen annually, one from each representative district, on the Tuesday succeeding the first Monday of October, by the qualified electors of the several districts; such districts to be bounded by county, precincts, town or ward lines, to consist of contiguous territory, and to be in as compact a form as practicable.

SEC. 5. The senators shall also be chosen by single districts of convenient contiguous territory at the same time the members of the House of Representatives are required to be chosen, and in the same manner, and no representative district shall be divided in the formation of a senate district. The senate districts shall be numbered in regular series, and the senators chosen by the districts designated by odd numbers shall go out of office at the expiration of the first year, and the senators chosen by the districts designated by even numbers, shall go out of office at the expiration of the second year; and thereafter the senators shall be chosen for the term of two years, except that there shall be an entire new election of all the senators at the election next succeeding each new apportionment provided for in the third section of this article.

SEC. 6. The first session of the Legislature after the adoption of this constitution, and each session immediately succeeding the return of the census provided for in this article, shall not extend beyond the term of ninety days. No other regular session shall extend beyond the term of sixty days, nor any special session beyond the term of forty days. The Legislature shall meet at the seat of government on the first Wednesday in January of each year, and not oftener unless convened by the Governor.

SEC. 7. No person shall be eligible to the Legislature who shall not be a citizen of the United States, who shall not have resided within the state one year next preceding his election, or who shall not be a qualified elector in the district which he may be chosen to represent.

SEC. 8. Each House shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner and under such penalties as each House may provide.

SEC. 9. Each House may determine the rules of its own proceedings, punish for contempt or disorderly behavior, and with the concurrence of two thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause.

SEC. 10. Each House shall choose its own officers, and the Senate shall choose a temporary President when the Lieutenant Governor shall not attend as President, or shall act as Governor.

SEC. 11. Each House shall keep a Journal of its proceedings, and shall publish the same, except such parts as require secrecy. The doors of each House shall be kept open, except when the public welfare requires secrecy. Neither House shall, without the consent of the other, adjourn for more than three days.

SEC. 12. No member of the Legislature shall, during the term for which he was elected, be appointed or elected to any civil office in the State, which shall have been created, or the emoluments of which shall have been increased during the term for which he was elected.

SEC. 13. No person being a member of Congress, or holding any military or civil office under the United States, (postmasters receiving a compensation of not over five hundred dollars per annum excepted,) shall be elligible to a seat in the Legislature: and if any person shall, after his election as a member of the Legislature, be elected to Congress, or be appointed to any office, civil or military, under the Government of the United States, (the office of postmaster at a compensation of not over five hundred dollars per annum excepted,) his acceptance thereof shall vacate his seat.

SEC. 14. No member of the Legislature or other State officer shall be interested, either directly or indirectly, in any contract authorized by the Legislature during his term of office. Nor shall the Legislature grant any extra compensation to any public officer, agent, servant or contractor, after the services shall have been rendered or the contract entered into. Nor shall the compensation of any public officer be increased or diminished during his term of office.

SEC. 15. Members of the Legislature shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest; nor shall they be subject to any civil process during the session of the Legislature, nor for fifteen days next before the commencement and after the termination of each session.

SEC. 16. No member of the Legislature shall be liable in any civil action or criminal prosecution whatever for words spoken in debate.

SEC. 17. The Governor shall issue writs of election to fill such vacancies as may occur in either House of the Legislature.

SEC. 18. The style of the laws of the State

shall be, "Be it enacted by the Legislature of the State of Minnesota;" and no law shall be enacted except by bill.

SEC. 19. Bills may originate in either House of the Legislature, and a bill passed by one House may be amended or rejected by the other; except that bills for raising revenue shall originate in the House of Representatives.

SEC. 20. No private nor local bill, which may be passed by the Legislature, shall embrace more than one subject, and that shall be expressed in the title.

SEC. 21. No law shall be revised, altered or amended by reference to its title only; but the act revised, and the section or sections of the act altered or amended shall be re-enacted and published at length.

SEC. 22. A majority of all the members elected to each House shall be necessary to pass every bill or joint resolution, and all bills and joint resolutions shall be signed by the presiding officers of the respective Houses.

SEC. 23. Every bill and joint resolution except of adjournment, passed by the Legislature, shall be presented to the Governor before it becomes a law. If he approve he shall sign it; but if not he shall return it with his objections to the House in which it originated, which shall enter the objections at large upon its Journal, and reconsider it. On such reconsideration, if two thirds of the members elected agree to pass the bill it shall be sent with the objections to the other House, by which it shall be reconsidered. If approved by two-thirds of the members of that House it shall become a law. In such case the vote of both Houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered on the Journals of each. House respectively. If any bill be not returned by the Governor within three days, (Sundays excepted,) after it has been presented to him, the same shall become a law in like manner as if he had signed it, unless the Legislature by their adjournment prevent its return, in which case it shall not become a law. The Governor may approve, sign and file in the office of the secretary of state within three days after the adjournment of the Legislature, any act passed during the last three days of the session and the same shall become a law.

SEC. 24. The yeas and nays of the members of either House on any question shall at the request of one sixth of those present be entered on the Journal; and any member of either House shall have the right to protest and to have his protest with his reasons for dissent entered upon the Journal.

SEC. 25. Every Statute shall be a public law, unless otherwise declared in the Statute itself.

SEC. 26. In all elections to be made by the Legislature the members thereof shall vote *viva voce* and their votes shall be entered on the Journal.

SEC. 27. Each member of the Legislature shall receive for his services three dollars for each day's attendance during the session, and ten cents for every mile he shall travel in going to and returning from the place of the meeting of the Legislature on the most usual route.

SEC. 28. The Legislature may confer upon the boards of supervisors or boards of commissioners of the several counties of the State and upon the corporations of towns and cities such powers of a local, legislative, and administrative character, as they shall from time to time prescribe.

SEC. 29. The Legislature shall establish but one system of town and county government, which shall be as nearly uniform as practicable.

SEC. 30. The Legislature shall never authorize any lottery, nor allow the sale of lottery tickets.

SEC. 31. The Legislature shall not establish a State Paper. Every newspaper in the State which shall publish all the general Laws of a session within forty days of their passage shall be entitled to receive a sum not exceeding fifteen dollars therefor.

SEC. 32. The Legislature may submit to the people any act for their ratification or rejection, and such act so submitted shall, if approved by a majority of the legal voters at the appointed election, become a law.

SEC. 33. The Legislature shall direct by law in what manner and in what courts suits may be brought against the State.

SEC. 34. Members of the Legislature and all officers executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe an oath or affirmation to support the Constitution of the United States and the Constitution of the State of Minnesota, and faithfully to discharge the duties of their respective offices to the best of their ability.

SEC. 35. The Legislature shall determine what persons shall constitute the Militia of the State, and may provide for organizing and disciplining the same in such manner as shall be prescribed by law.

SEC. 36. The Legislature may contract debts to meet casual deficits or failures in the revenue, but such debts direct or contingent, singly or in the aggregate, shall not at any time exceed five hundred thousand dollars; and the moneys arising from loans creating such debts shall be applied to the purposes for which they were obtained, or to pay such debts; *Provided* that the State may contract debts to repel invasion, suppress insurrection, or if hostilities are threatened, provide for the public defense.

SEC. 37. The Legislature shall provide for the speedy publication of all statute laws of a public nature and of such judicial decisions as it may deem expedient. All laws and judicial decisions shall be free for publication by any person.

And then on motion of Mr. NORTH, at ten o'clock and 30 minutes, the Convention adjourned.

ELEVENTH DAY.

FRIDAY, July 24, 1857.

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain, Rev. E. D. NEILL.

The Journal of yesterday was read and approved.

PETITION.

Mr. MANTOR presented the petition of L. H. BOND and nineteen others, citizens of Dodge County, praying that, in framing that portion of the Constitution relative to the Sabbath, the liberty and rights of conscience of the citizens may be secured, &c., which was referred to the committee on the Preamble and Bill of Rights.

REPORTS OF COMMITTEES.

Mr. COLBURN from the committee on Banking and Corporations other than Municipal, submitted the following report which was read a first and second time, and laid on the table to be printed, viz:

SECTION 1. Corporations for Banking purposes, with the necessary powers and privileges may be formed under the general laws, but shall not be created by special enactment.

SEC. 2. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of State, of all bills or paper credit, designed to circulate as money, and require security to the full amount thereof, to be deposited with the State Treasurer, in United States Stocks, or in interest paying stocks of States in good credit and standing, to be rated at ten per cent. below their average value in the city of New York, for the thirty days next preceeding their deposit; and in case of a depreciation of any portion of such stocks, to the amount of ten per cent. on the dollar, the bank or banks owning said stocks, shall be required to make up such deficiency by depositing additional stocks; and said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of transfer, and to whom.

SEC. 3. No law shall be passed sanctioning in any manner, directly or indirectly, the suspension of specie payments, by any corporation issuing bank notes of any description.

SEC. 4. The stockholders in every corporation or association for banking purposes, issuing any kind of paper credits to circulate as money, shall be individually responsible for its debts and liabilities of every kind.

SEC. 5. In all cases of the insolvency of any bank or banking association, the bill-holders thereof, shall be entitled to preference in payment, over all other creditors of such bank or association.

SEC. 6. Corporations for purposes other than banking may be formed by general laws; but shall not be created by special act, except for municipal purposes, and in cases where in the judgement of the Legislature the object of the corporation cannot be obtained under general laws. All general laws, or special acts passed in pursuance of this section, may be altered from time to time, or repealed.

SEC. 7. Dues from corporations other than banking shall be secured by such individual liability of the corporators, and other means as may be prescribed by law.

SEC. 8. The State shall not be a stockholder in any banking, or other corporation; nor shall the credit of the State be given or loaned in aid of any person, association, or corporation.

SEC. 9. The term corporations, as used in this article, shall be construed to include all associations and joint stock companies, having any of the powers or privileges of corporations, not possessed by individuals or partnerships. And all corporations shall have the right to sue, and shall be subject to be sued in all the courts, in like cases as natural persons.

Mr. DAVIS from the committee on Punishment of Crimes, made the following report, which was read a first and second time, and laid on the table to be printed, viz:

REPORT of the committee to whom was referred that portion of the Coustitution relating to the Punishment of Crimes.

PUNISHMENT OF CRIMES.

SECTION 1. No person shall be held to answer for a capital or infamous crime, unless on a presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by a justice of the peace, or in cases arising in the army or navy, or in the militia, when in actual service, in the time of war or public danger. The Legislature shall provide by law a suitable and impartial mode of selecting juries, and their usual number and unanimity, in indictments and convictions, shall be held indispensable.

SEC. 2. In all criminal prosecutions, the party accused shall enjoy the right of a speedy and public trial, by an impartial jury of the State and County wherein the crime shall have been committed, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for securing the attendence of witnesses in his favor, and to have the assistance of counsel for his defense.

SEC. 3. Sanguinary laws shall not be passed; excessive bail shall not be required, nor excessive fines imposed; cruel and unusual punishments shall not be inflicted, and all penalties shall be proportioned to the nature of the offence.

SEC. 4. All persons, before conviction, shall be bailable, except for capital offences where the proof is evident, or the presumption great.

SEC. 5. The privilege to the writ of *habeas corpus* shall in no case be suspended in this State unless when, in case of rebellion or invasion, the public safety may require it.

SEC. 6. No person arrested or confined in jail shall be treated with cruelty or unnecessary rigor.

SEC. 7. Treason against this State consists only in levying war against it, adhering to its enemies and giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or confession in open court.

SEC. 8. No person shall be subject to corporal punishment under military law, except such as are employed in the army or navy, or in the military when in actual service in time of war or public danger.

SEC. 9. No person for the same offence shall be twice put in jeopardy of life or limb; nor shall he be compelled in any criminal case to bear witness against himself.

SEC. 10. In all criminal cases whatever, the jury shall have a right to determine the law and the facts.

SEC. 11. The Legislature may authorize trial by jury of a less number than twelve men in the inferior courts of this State.

SEC. 12. The penal code shall be founded on the principles of reformation, and not of vindictive justice.

Mr. PERKINS, from the committee on Boundaries, made the following report, which was read a first and second time and laid on the table to be printed, viz:

THE committee on Boundaries beg leave to report the following Article, and recommend its adoption into the Constitution of the State of Minnesota:

It is hereby ordained and declared that the State of Minnesota doth consent to and accept of the boundaries prescribed in the Act of Congress entitled "An Act to enable the people of Minnesota to form a Constitution and State Government preparatory to their admission into the Union on an equal footing with the original States. Approved March 3d, 1857." Beginning at the point in the centre of the main channel of the Red River of the North, where the boundary line between the United States and the British Possessions crosses the same; thence up the main channel of said river to that of the Bois des Sioux River; thence up the main channel of said River to Lake Traverse; thence up the centre of said lake to the southern extremity thereof; thence in a direct line to the head of Big Stone Lake; thence through its centre to its outlet; thence by a due south line to the north line of the State of Iowa; thence along the northern boundary of said State to the main channel of the Mississippi River; thence up the main channel of said river, and following the boundary line of the State of Wisconsin until the same intersects the St. Louis River; thence down the said river to and through Lake Superior on the boundary line of Wisconsin and Michigan, until it intersects the dividing line between the United States and the British possessions; thence up the Pigeon River, and following said dividing line to the place of beginning.

OSCAR F. PERKINS,
SAMUEL W. PUTNAM.
L. K. STANNARD,
SIMEON HARDING.

Mr. McCLURE offered the following resolution, which was read, considered, and agreed to, viz:

WHEREAS, It has been reported that in the Seventh Council District (which includes Pembina) no election was held for the election of Delegates to this Convention; and whereas, it is also reported that certain persons, some of whom reside in that District, and others in Minneapolis, (without said District,) have obtained certificates of election to this Convention; therefore,

Resolved, That a committee of three be appointed by the President of this Convention, whose duty it shall be to procure from the Secretary of this Territory a certified copy of the returns of said election by the Register of Deeds to this office, and that said committee be further empowered to ascertain the fact whether an election was held in said Seventh Council District on the first Monday of June, eighteen hundred and fifty-seven, for the election of delegates to this Convention; and that they report to this Convention at as early a day as possible.

The PRESIDENT thereupon appointed as such committee, Messrs. MCCLURE, FOSTER and STANNARD.

PREAMBLE AND BILL OF RIGHTS.

On motion of Mr. SECOMBE, the Convention resolved itself into a committee of the Whole, Mr. STANNARD in the Chair, on the report of the committee to whom was referrd that portion of the Constitution relating to the Preamble and Bill of Rights. [*For report see proceedings of the 21st of July.*] The report was read by clauses, and amendments offered and discussed as follows:

"PREAMBLE. We the people of the State of Minnesota, grateful to God for our civil and religious liberty and desiring to perpetuate its blessings and secure the same to ourselves and our posterity, do ordain and establish this Constitution."

Mr. GALBRAITH moved to strike out all between the word "Minnesota" and the word "do."

Mr. NORTH. I hope that amendment will not be adopted. I like that part of the

preamble. I like that recognition of a higher power, in all our Constitutions, as the source from which our civil rights come. I know it is the modern doctrine that there is no higher law than an assemblage of men who meet to make laws for the people. But I think a moment's reflection will convince any man of the folly of such an idea, and I think, in order to procure a correct idea upon this subject, there should be such a recognition in the preamble of the Constitution itself.

Mr. GALBRAITH. I think that verbiage in a Constitution is objectionable, and to stuff it with self-evident truths is of no account whatever. I see in this preamble, evidence of the ancient land marks,—a set of words which have no immediate connection with the Constitution. There is no man here but recognizes a Divine Providence, but why put that in this Constitution; what has it to do with the Constitution? We were sent here to frame a Constitution for the people, and let us do that and avoid other matters. It is not to be presumed that we do not recognize an overruling Providence. Hence this clause is unnecessary.

Mr. HAYDEN. I think that we should, in this preamble, recognize a higher power, and if we refuse to do so, the people we represent will call us to account. I am confident that the people of the Territory recognize a higher power than the law of the land; and the will of God, upon which all just law is based, and his kindness, mercy and goodness to us, in permitting us to enjoy our civil and religious privileges, should be recognized by us in the very commencement of our work.

The amendment was not agreed to.

SEC. 3. Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of right; and no laws shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libel the truth may be given in evidence: and if it shall appear to the jury that the matter charged as libelous be true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

Mr. SECOMBE. I move to insert after the word "libel," the words "or slander," and after the word "libelous," the words "or slanderous."

The amendment was adopted.

Mr. COLBURN. I move that all of the section after the word "press" be stricken out. To show the object of my amendment I will state that I think the bill of rights should be a simple statement of rights, and that we should avoid in it everything of a legislative nature. We have a committee upon the Punishment of Crimes, and the latter part of this section embraces a subject which will properly come under the cognizance of that committee. It also seems to partake of the nature of legislation rather than of a declaration of rights. The first part of the section is a simple declaration of rights, while the latter part seems to go farther than that.

Mr. GALBRAITH. We should be careful in forming a Constitution to form it in as simple terms as possible. Fill our Constitution with so much superfluous matter, and it will be more than all the men in the world can do to explain what it means. Here is an endeavor to legislate in the Constitution. Now a Constitution should be a system of abstract principles,—something like the Constitution of the United States,—and from those principles should be deduced the proper legislation of the country. Adopt the latter part of this section, and we tie up the future legislation of the country upon this subject. The views of men may change, and our laws may change accordingly. I have never yet come to the conclusion that a written libel should be tolerated in any community. Not because it is an injury done to a person individually, but because it is a criminal act tending to excite riot and a breach of the peace. It may be true that the greater the truth the greater the libel, as declared by the doctrine of the old common law. A man may stick up in the streets obscene caricatures upon me. They may be true representations, but they may be disgraceful, and may excite riot, and under the clause as it now stands every thing may be done to justify the act. This striking out all the old land marks is a dangerous operation at the best. We should consider calmly and wisely before we attempt to do this thing. Men in these days have got to be wiser than what is written, and the ancient land marks are being torn down. It puts me in mind of those

wise men who last winter made the Dred Scott decision. They had become wiser than the men who framed the Constitution. ADAMS and JEFFERSON and other great men did think the prohibition of slavery Constitutional, but those wise-acres got new light—I suppose spiritualism gave it to them—and they decided that those who framed the Constitution knew nothing about it. That is, that the potter is no better than the clay which he fashions—the principle of the quack doctor who declares that he knows more of the human system than Heaven which made it. Let us insert in our bill of rights simple abstract truths, and let the wisdom of legislation act upon them.

"In all criminal prosecutions or indictment "for libel or slander" is the reading of the section as it now stands. Is there a lawyer in Minnesota who ever heard of an indictment for slander—words simply spoken? If so, when and where? Who ever heard of it in the United States?

"The jury shall have the right to determine "the law and the fact." That is another new fangled notion. Why, the next thing will be to abolish all our Judge's offices. What do we elect Judges for if it is not that they may instruct the jury what the law is? The jury determine the law and fact! Why, they are not presumed to know the law, and they do not pretend to know it. I never knew a jury who did not have enough to do to determine the facts. I believe the Constitution of the United States prohibits any such course of proceeding. It is going too far. We had better abolish the office of Judges at once. It has been argued that juries have the right to determine the law and the fact in criminal cases. Now suppose they disregard the instructions of the Judge in a criminal case, and they find an innocent person guilty; or suppose the law declares that such and such an act shall be deemed larceny, and the Judge so expounds the statute to the jury; is a juror to disregard the instruction in the one case, and may he hop up and declare that is not larceny in the other? He might shield his course under such a provision as this in the Constitution, if we adopt it.

Mr. NORTH. It is a little surprising to me that the gentleman should be opposed to any new ideas, and should cling to the past as the only safe course by which to be governed. I believe that the world is growing wise, and that this generation knows more than the past one. If there is new light, it becomes us to avail ourselves of it; and if there are old errors and wrongs, it becomes us to avoid them. It does not necessarily follow that because we find a new thing, we should swallow it good or bad, but the gentleman clings to the old doctrine that the greater the truth the greater the libel, and I must confess that I am surprised that any gentleman in this age should advocate such an idea. It may become necessary for a man to publish, for the good of the people, the crimes committed by certain criminals in the community. Papers may publish them, people may speak of them in the terms befitting the crimes; and the criminal turns round and prosecutes for libel. The publisher may say the publication is true, and it is for the interest of the people to know the facts. "It "makes no difference," says the criminal, "the greater the truth the greater the libel. "If it is true that I am the consummate "scoundrel you represent me, the greater the "penalty that shall fall upon you." That is a beautiful system to retain in our Constitution. It seems to me that the principle is perfectly absurd. A year or two ago the Mayor of New York issued a proclamation in reference to the knavery of the mock auction shops of that city, and cautioning the public to be on their guard against them. One of them, a little more impudent than the rest, pitched into the Mayor and prosecuted him. Now upon the principle, "the greater the "truth the greater the libel," the penalty against the Mayor would have been pretty heavy. The greater the criminal is, the greater the penalty he can recover in such a case.

As to the jury being judge of the law as well as of the fact, it is a little surprising that the gentleman should regard that as a new idea. It is a very old one, and though there is a difference among lawyers, and among judges upon the propriety of that course, it has been acted upon, and the courts have sustained it for a very long time. If it is a good one, it ought to be retained. The gentleman asks what is the use of having judges. The Dred Scott decision shows that judges

are not infallible—judges are imperfect as well as jurors,—and if we are to have a Jeffries or a Lecompte upon the bench to rule as some corrupt judges have ruled in times past, I hope the jury will have power to decide upon the law as well as the fact, and thereby save the people from the consequence of such corrupt ruling upon the part of judges. I am more willing to trust power in the hands of the people, than I am to one or two individuals. If there is danger of wrong, that danger is less as the power is divided among a greater number.

But I like the suggestion of the gentleman at my right, (Mr. COLBURN), in regard to leaving this latter clause of the section to be incorporated into that subsequent part of the Constitution which shall treat of crimes and punishments; and I hope that disposition will be made of it.

Mr. BALCOMBE. Both those who have spoken in favor of the retention of the clause as reported by the committee, and those in favor of striking it out, have spoken as though this provision was something new and unusual. I find in the Constitutions of Maine, Ohio, Wisconsin, and other States, provisions and language similar to this. I do not rise to discuss the propriety of retaining this clause in our Constitution, but simply to disabuse the minds of those who might be impressed, by what has been said, with the idea that this provision is new. On the contrary I believe that nearly one-half of the States of the Union have, in their bill of rights language very similar to this.

Mr. GALBRAITH. Certainly if this provision is to be retained, it ought not to be here. I labor under the difficulty of being somewhat old fogyish in my views upon this matter. Such a thing as an indictment for slander was never heard of. An indictment for libel is a different thing. That is a public offence, and no damages are claimed under an indictment. The indictment is for the purpose of punishing a public offence—for the disturbance of the public peace. Damages for a libel are to be recovered in a civil suit.

Mr. WILSON. I am in favor of this section as reported by the committee, but I think it should not be placed in the Bill of Rights, but in another part of the Constitution. I was somewhat astonished that a lawyer, like my friend who has spoken against this clause so eloquently and forcibly, should speak about the common law as a standard which we could not make any better. Were I but to read some of the decisions which have been made under the common law, that law would seem ridiculous to every man here. The doctrine of that law that the greater the crime, the greater the libel, will not bear the test of reason in these days.

But where shall we have this proposed provision? In the Constitution, or shall we leave the matter to the Legislature? Suppose the Legislature fails to pass such a provision as this, then we shall be under the common law. I say we should leave no chance for that.

As to the amendments inserting "slander" and "slanderous," I have no doubt the Convention will, upon looking at the matter more carefully, say they should not be inserted. I would wish to amend in the last line by inserting after the word "law" the words, "under the direction of the court." Now attorneys come before a jury and one states the law in one way, and the other in another way. But the court will be impartial, and a jury after hearing his statement of the law by the court, will be governed by it, rather than by the statement of the attorneys.

Mr. GALBRAITH. If I thought this the proper time to discuss the right of juries to determine the law, I should offer some further considerations upon it. But I do not. It seems to me that this clause should be stricken out of the Bill of Rights and should be brought before the Convention at another time, and in another form. It ought to be fully discussed, and for the reason that I think it will be stricken out here, and incorporated in another place, I will say no more upon it now.

Mr. DAVIS. I do not think this matter comes before us from the proper committee. On the first or second day of the Convention there was a select committee appointed to take into consideration the subject of forming permanent committees of this body. That committee, of which, I think, the chairman (Mr. COGGSWELL) of the committee on the Bill of Rights was chairman, reported among other things in favor of a committee on Punishment

of Crimes. Of that committee I have the honor to be chairman. Now this Committee on the Preamble and Bill of Rights, with great modesty, have included in their report nearly everything which would properly come under the consideration of the committee on Punishment of Crimes. Upon the duties and jurisdiction of how many other committees they have trespassed, I do not know. In my opinion the course they have pursued is an insult to the committee of which I am chairman. I am therefore in favor of striking out the provision here, and at the proper time I shall move to strike out other provisions of this report, because I think they legitimately belong to the duties of other committees.

Mr. WILSON. I deem it proper to say here that the chairman who reported this Preamble and Bill of Rights is not present, and that I do not think it is a very clear case that they have transcended the limits of their duties, because I think that nearly all precedent will show that the subject matter of this section is within the limits of their duties, and so far as I know, it is incorporated into the Bill of Rights of almost every Constitution I have examined, which has a Bill of Rights. I am not in favor of changing it until the chairman who reported it is present, and has an opportunity to speak for himself.

Mr. NORTH. It is very common to have a clause similar to this in Constitutions, and yet I think the best place for it is not in the Bill of Rights. I have no idea that the committee had any idea of trespassing upon other committees, for they have precedents for inserting this provision in this part of the Constitution. But I think it better to have it elsewhere, and therefore I am in favor of striking it out.

Mr. BALCOMBE. I differ with the gentleman who has just taken his seat. If this clause is to be inserted in the Constitution at all, this is the proper place. On perusing the various Constitutions of the several States, I find that wherever this clause is inserted at all, it is contained under the head of Bill of Rights. In the New York Constitution it is contained in these words:

"Every citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libels, the truth may be given in evidence to the jury, and if it shall appear to the jury, that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted, and the jury shall have the right to determine the law and the fact."

Now it seems to me that this is the proper place for this clause, if it is to be inserted in the Constitution at all. I am decidedly in favor of the clause as reported by the committee.

Mr. SECOMBE. I wish to say a word in regard to my amendment, which was adopted, inserting the words "slander" and "slanderous."

Mr. BALCOMBE. I rise to a point of order. That amendment has been adopted, and is not now the subject of discussion.

The CHAIRMAN. The chair sustains the point of order.

Mr. SECOMBE. I would suggest to the Chair that the pending motion is to strike out that part of the section including my amendments, and in the course of the discussion the fact that the amendment was adopted, has been used as an argument in favor of striking out. I propose to confine my remarks to the clause as it now stands. I find a difference of opinion among men of the legal profession in this body, on this point. The matter might very properly be left as it is now, and let it be acted upon when it is reported to the Convention, at a time when all the members of the Convention shall be here.

Mr. LOWE. I understand that this clause bears only upon the case of libel, whereas there is a clause in a report of another committee, which will come up hereafter, which is much broader and more comprehensive. I believe there is a class of ideas in the public mind for which the Republican party, and the Anti-Slavery party are being made responsible, and for my part I do not intend to become responsible for any ideas which have no necessary connection with the cause for which this party is formed. I do not choose to accept things because they are new. I shall be found in opposition to this idea of giving the jury power to judge the law and fact in all cases.

Mr. GALBRAITH. I do feel that these

innovations which are creeping into the laws of the country, are robbing the people. The whole system of our laws, as established by a train of decisions, is being attacked and gradually undermined, and decisions made in times long gone by, by the greatest judges the world ever saw, are now considered as no precedents. Where do you go now for your decisions upon matters of law? To a set of young attorneys. Clients are placed at the mercy of young attorneys who frequently have never read of law out of the Territory of Minnesota. There is a day coming in this Convention, when I hope to be heard at length upon this subject. The people are now at the mercy of what is called the code—a mass of contradictions which no lawyer can fathom. Take that New York code, and the decisions upon it in the different districts of that State, and in the court of appeals, and decisions in number one of HOWARD'S reports, are contradicted in number two. You read a decision from one volume and some snap of a lawyer will get up and read a different decision from another volume. I hope this Convention will be cautious how they make any further innovations upon the old and well tried system.

Mr. NORTH. I do not suppose the code by which we practice,—adopted from the State of New York—is properly under discussion, but as it has been attacked rather fiercely, I wish to say that that very much abused New York code has become the admiration of the civilized world. It is applauded in England, and the highest encomiums have been passed upon it there—that code which we were so unfortunate as to adopt some seven years ago. Some of the leading minds, and ablest lawyers of New York were engaged in the preparation of it. GRAHAM, of New York City, one of the ablest lawyers and most expert practitioners, was one of them. It swept away the rubish and fictions of law which had accumulated for centuries, and which were only productive of expense to clients. The old lawyers of the State, at that time, were mostly opposed to those innovations, and some of them stood out stoutly against it. But no longer ago than last winter, I was conversing with a son of JOSHUA SPENCER, an old lawyer, who was originally opposed to the code. His son informed me that his father was written to by a practitioner in Iowa for his opinion of that code. He replied in a long letter, passing the highest encomiums upon it. And thus it has worked itself into the approbation of the best legal minds in that State.

As to the mode in which that code has been administered here by our judges, I have nothing to say. I will let the Minnesota judges speak for themselves.

Mr. KING. This section is merely a declaration of rights, and if we should exlcude it from a place here because it will necessarily find a place in another part of the Constitution, we ought to exclude seven eighths of this report. Examine every section of it, and you will find that nearly all of them would properly be embraced in the reports of other committees more or less. I understand the bill of rights to be merely a declaration of certain rights and privileges which belong to the people, and we base our Constitution upon those rights, and as a consequence we shall embrace more or less of them in every article of that Constitution. I am in favor of letting this section stand as it is reported; it will not interfere with the reports of other standing committees in the least.

Mr. WILSON. One word in answer to my friend from Scott county, [Mr. GALBRAITH.] I do not claim to be anything else than a young lawyer, nor have I ever practiced law except in the Territory of Minnesota. Pitching into the New York code seems to be the order of the day now, but as it is, it is not necessary to eulogize that code. The world is eulogizing it by adopting it, and I hesitate not to say that as a system of practice, it is infinitely beyond any thing ever offered to the world before.

As to this matter of slander, I aver that no man lives who can take the laws and decisions of the State of Pennsylvania, and say what the law of slander is there; and you cannot get a good lawyer in that State to give you a written opinion upon a case of slander, without his saying that the code is very uncertain, because the decisions are so contradictory. Now shall we, in this state of things, submit to such uncertainty here, where there are frequently political animosities pervading he hearts of our judges, who ought to be incorruptible and uninfluenced by such feel-

ings? Shall we put reputation, standing and property all in the hands of one single man? The first Constitution in this book of Constitutions, which I hold in my hand, has in it such a provision as we contemplate; and the last has it also, and it runs through most of them. But we need not to pass it upon the strength of precedent, because it stands upon its own merits, as well as upon precedent. Every man knows that it is wrong to say that the greater the truth a man enunciates, the greater the libel and the punishment. That needs to be modified by circumstances which may be presented to a jury—and that jury of twelve men is the best tribunal to say what amount of punishment shall be inflicted upon a man for what he has said.

As to the idea of its being something new, it is entirely without foundation; because it is found in the oldest Constitution almost that we can find. "The greater the truth the greater the libel" has never been sanctioned universally, and never has been sanctioned by all the great legal minds even in New York.

Mr. McCLURE. The question is upon striking out all after the word "press" not because it ought not to be inserted in the Constitution, but because this is not the proper place. I am opposed to striking it out, and in favor of leaving it just where it is.

The subject of the New York code has been pretty freely discussed by our young friends upon both sides. I am neither a young man, nor a young lawyer, having lived more than half a century, and practiced law upwards of twenty years. And I must say that did I desire to live by a world of litigation I should advocate the adoption of the New York code everywhere, and upon all occasions, because a very little ingenuity will construe it to mean anything and everything. I can take it and make out a case to a jury which they cannot resist, and get a verdict either way. Now, I have passed the time of life when I care a great deal about fun, and consequently I am in favor of a steady progressive movement. I am in favor of holding individuals responsible for all libelous matter they may publish; in favor of allowing them to plead the truth of the assertion which they have made, and if they can establish it by legal testimony, why let them go hence without delay. If they cannot, let the jury decide upon the law and the fact in reference to the matter.

An amendment was suggested that the jury should be the judges of the law under the direction of the court. I shall always be opposed to anything of that kind. It was once decided by a very distinguished judge of Indiana that a juror who disregarded the instructions of the court, was guilty of perjury. It was subsequently decided by a full bench, that such was not the law, and that a juror might honestly differ from even a judge. I hold that a juror should respect the law as given by a court, yet that they have the right to find a verdict directly contrary to the ruling of the court. If I were a juror and the judge should instruct me contrary to what I considered to be law, I should feel under no obligation to pay any sort of attention to his instructions. In all criminal cases the jury should have a perfect right to decide upon both law and fact. I hope this provision will remain where it is, and as it is.

The question was then put upon Mr. COLBURN'S amendment, and it was lost.

Mr. WILSON. I now move to amend by inserting after the word "determine" in the last line, the words "the facts and the law "under the direction of the court." My amendment will leave the jury to determine everything. They will not be bound by the court. It becomes the duty of the court to instruct the jury as to what the law is, and the jury then conclude themselves whether the court has properly instructed them or not. The counsel upon one side insists that the law is so and so, while the counsel upon the other side will insist that it is exactly the reverse, but generally the instruction of the judge would be much nearer correct, and more reliable than the diction of lawyers upon either side. I trust the amendment will be adopted.

Mr. NORTH. I object to the amendment I think it makes the clause vague and uncertain. The object of the section is to make it the right of the jury to decide the law and the fact. Now if it is said that they shall have the right to decide it under the direction of the court, and in a given instance they should decide the law contrary to the instructions of the court, might not this clause as amended be brought up against them to show they did

not decide the law under the direction of the court?

Mr. GALBRAITH. I would ask what in the world judges are for? What are their duties in criminal cases if not to expound the law? Are they to be set upon the bench to keep order merely, as though they were only presiding over a town meeting? If the jury are to expound the law why not abolish the court, and fall back upon first principles?—restore the old system of decision by battle, and turn the parties out to try which can whip the other.

But there is such a thing as law now recognized, and if this levelling system is to be adopted, I hope, before I am called upon to vote upon it, that some one will expound to me the office and duties of a judge upon criminal trials. What are his functions, if we put into the Constitution an unbending rule that the jury shall decide the law and the fact? He is reduced to nothing and you might as well set upon the bench a block of wood. You deprive the judge of every function that belongs to him by virtue of his office as judge. But you say the judge is to expound the law to the jury, but the jury is not bound to respect the law. It is said judges may be corrupt. There have been corrupt judges in the world, but have there not also been corrupt juries? And is it not a matter of history that the decision of a jury is the most doubtful thing in the world? One very learned judge did say, that he acknowledged the omniscience of Divine Providence, but there were two things which even Providence never could know, before they happened—one was the decision of a traverse jury.

I have as much confidence in the decisions of the people as any man, but I believe in every man's following his own business. I do not believe that a blacksmith can make a watch. I do not like to see a man get above his business. When we look around for a judge we endeavor to get one who is legally educated; who has had practice and experience; and who is supposed to know all about law. When we look for a jury we seek for intelligent and honest men. It is the duty of the judge to expound to the jury what the law is, and he is the only fit man to expound the law to twelve men who do not pretend to know what the law is. Who is the better judge of the law in a given case, the judge or the jury? I hope we shall stop and think before we adopt this leveling system, rob the court of all its character, and turn it into a town meeting.

Take the works of that noble race of legal minds which have run down the stream of time from the first establishment of the common law, to this day; take the works of Blackstone, and Coke, and Sugden, and Mansfield, and others,—books now musty on the shelves, and scarcely ever read,—and they contain an epitome of the wisdom of the world, and are the bulwarks of the liberty we enjoy to-day. We should thank God that those books are still in existence. Deprive the judges of their functions, and it will be like running a railroad car without a locomotive. Tell me, some one, what are to be the functions of a judge under this new system. There always has been a definition of a judge. Webster's dictionary will give it. Blackstone will give it. The history of the world will give it. But you will wipe them all out, and make out another. I should like to see it put into plain English, so that I may know, before I vote for the clause, what a judge is to be now.

Mr. NORTH. I do not see such cause of alarm and fear of a catastrophe, in consequence of adopting this good old provision, for it has been inserted in many of the Constitutions of our States, and it has had a beneficial influence. I do not think the rights of the people will be all taken away from them. As wise States and statesmen have adopted this provision, I think, if there were such evils as the gentleman seems to anticipate, we should have been likely to have found them out before this. The gentleman tells us that lawyers and the judiciary are the guardians of the people's rights, and have been; and he runs back to the time of Coke and Littleton, Blackstone and Mansfield, as though they were the ones above all others who guarded the people's rights, and protected them in the enjoyment thereof. I am glad he referred to Lord Mansfield, for there was, in his time, a a case involving the liberties of man as man. A Coke, a Littleton, and a Blackstone, had decided that a man could be robbed of his liberties, and that the Constitution of England authorized it. All the lawyers, and all the

judges, Mansfield into the bargain, so decided. But one common-sense man said, "No! the "Constitution of England sanctions no such "thing." That man studied the law, vindicated his principles, fought it from year to year, until he compelled Mansfield upon the bench to reverse his decision, and compelled Blackstone to revise his commentaries, and to declare to the world that slaves cannot breathe in England.

I tell you common-sense people sometimes know the law better than judges. It was said by a wise and shrewd man that the use of language was to enable us to conceal our ideas, and many judges administer the law as though its object were to defeat the ends of justice. There are little minds upon the bench as well as off it; and many judges administer the law as though its technicalities were more important to be preserved, than the rights of the people.

The gentleman asks what is the use of a judge unless he can rule the jury in regard to the law. With as much propriety he might ask what is the use of witnesses if the jury are to determine the facts. Why, the witnesses bring the facts before the jury for their consideration, and the counsel and the judge bring the law before them for consideration. If there is no possible use for a judge unless he can control the jury on subjects of law, we might say, with equal propriety, that there is no use for witnesses unless the jury are bound to believe every witness who is sworn. The counsel will differ in their interpretation of law, and the judge makes his statement before the jury to guide their judgment to a correct decision. But judges are not infallible, as he himself has shown. I do not know as the gentleman, in his encomiums of the judges of England, meant to have us believe that the judges of Minnesota are as infallible. If so, I beg leave to differ with him. I doubt very much whether some of our recently appointed judges are more infallible than some of our juries.

Mr. KING. I move that the committee rise.

Mr. BALCOMBE. I hope the motion will not prevail. In all probability the Convention will adjourn to-day, until Monday, and it seems that we ought to be willing to devote a good part of this day to the consideration of this report in order to bring our Convention to a close at the earliest possible day. If individuals desire to go home upon the boat which leaves at twelve o'clock, they can go, and the rest of us can remain here and work.

The motion was lost.

Mr. BOLLES. I hope the amendment will prevail. If I understand the object of this bill of rights, it is to declare a few fundamental ideas, which are to be carried out in the body of the Constitution. I am in favor of striking out the latter part of this section, for the reason that we ought to enunciate but simple principles in the bill of rights and nothing more. We have appointed committees to carry out in detail the programme laid down in the bill of rights, which, in my opinion, should be as simple and concise as possible. Hence I shall vote for this amendment. Unless we are cautious, we shall get into deep water, and shall anticipate in this bill of rights, things which properly belong to the reports of other committees. I do claim that the committee which made this report, exceeded, not only in this section, but in various other sections, their legitimate sphere of action. I hope in such cases we shall strike the sections out.

Mr. BILLINGS. I believe the amendment to insert the words "slander" and "slanderous" was adopted. If so, I shall now vote against the whole section. It seems to me that in a case of libel the jury are better qualified to judge of the law than any one else, but I am opposed to extend that power to the case of slander.

Mr. SECOMBE. The amendment to which the gentleman referred was adopted and now forms a part of the section. I offered that amendment supposing that what is technically called slander—that is the *speaking* of certain words—was indictable. Other gentlemen took a different view of it. I find by consulting what no gentleman will dispute to be good authority, that I was right. I propose to read a few lines from WHARTON'S American Criminal Law, pages 534, 535, and 536.

"An indictment will lie for all words spoken of another which impute to him the commission of some crime punishable by law, such as high treason, murder, or other felony (whether by statute or at common law) forgery, perjury, subornation of perjury, and other misdemeanors."

"An indictment will lie for all words spoken of another which will have the effect of excluding him from society, as for instance to charge him with having an infectious disease, such as leprosy, the venereal disease, the itch or the like. But charging him with having had a contagious disease is not actionable, for, as this relates to time past, it is no reason why his society should be avoided at present."

"No indictment however will lie for words not reduced to writing, unless they be seditious, blasphemous, grossly immoral, or uttered to the magistrate in the execution of his office, or uttered as a challenge to fight a duel, or with an intention to provoke the other party to send a challenge."

Now if that class of cases is indictable, it seems to me it is the very class of cases, of all others, which should have the benefit of the provisions of this article.

Mr. BALCOMBE. I have a substitue to offer to the pending amendment, which I think will obviate all this difficulty. It is to strike out all after the word "acquitted" and to insert "and in all indictments for libel the "jury having received the direction of the "court, shall have the right to decide at "their discretion, the law and the facts." This will procure the direction of the court, and at the same time leave the jury, at their discretion, to decide the law and the facts. I think the amendment covers the whole ground upon which so much debate has been had.

The substitute was adopted.

Mr. NORTH. I move to amend the section by inserting the word "that" before the word "right" where it first occurs.

The amendment was adopted.

SEC. 5. The right of trial by jury shall remain inviolate; and shall extend to all cases at law without regard to the amount in controversy; but a jury trial may be waived by the parties in all cases in the manner prescribed by law.

Mr. MORGAN. I move to amend that section by inserting the word "civil" before the word "cases" where it last appears.

Mr. BALCOMBE. I approve of the amendment. In most of the Constitutions that word "civil" is used in that connection, and there is a propriety in its use.

Mr. COLBURN. I hope the amendment will not prevail. I can see no objection to allowing a party in a criminal trial to waive that right.

Now I am not one of those who deem it my special duty to follow what is prescribed in some other instrument. The gentleman from Winona [Mr. BALCOMBE,] in every instance in which he has spoken in favor of any measure, has based his views upon the fact that some other instrument has contained a provision similar to the one under consideration. While I would pay due regard to all other Constitutions, I am not willing to bind myself to follow their example in all respects. I am not afraid of adopting some new ideas, if they seem reasonable and proper. I believe we may well make some improvements. I do not believe that human wisdom has yet devised an instrument but what may be improved. I can see no objection to allowing any person in all cases to waive his right of trial by jury, if he chooses.

Mr. MORGAN. I thought my amendment so obviously proper that there could be no doubt about it. To grant a criminal the right to choose whether he will be tried by a jury of his vicinage, or by some judge whom he might fancy would try his case better, is a thing which has never yet been done in this country. I suppose that the mere suggestion of the amendment would carry its own propriety with it.

Mr. COLBURN. The gentleman is mistaken in regard to the language used in this section. It says trial may be waived by the *parties*—not by *one* party, but by *both* parties. In all cases, both civil and criminal, there are two parties, and if both choose to waive trial by jury, they can do so. It does not lie in the person of a criminal alone to say he will waive such a trial. He must have the consent of the prosecuting attorney.

Mr. DAVIS. In the State of Ohio a criminal has the right to choose between a jury trial and a trial by court in all cases which are not penitentiary offences.

Mr. PERKINS. I think it eminently proper that the amendment should prevail. It is true that in all cases there are two parties. In criminal cases the people are one party, and in all cases of that kind I think a jury trial should be had. It is true, as has been remarked, that a jury trial cannot be waived, except by the consent of both parties, but it seems to me improper to allow any district attorney to take the responsibility of waiving a jury trial.

It is true, as the gentleman says, that improvements should be made upon the Constitutions which have been made before. It is equally true that no Constitution was ever framed which was in itself perfect, and not susceptible of some improvement; and the questions, in cases like this, arises, whether this is really an improvement. I do not consider it as such. I think it is a departure from the principles usually adopted in cases of this kind.

Mr. SECOMBE. It is not necessary to go to Ohio, or any other State to find examples. For the last six years we have been living under just such a law as this is. At the present time any criminal arraigned before a magistrate—and there is a very large class of offenses triable before that officer—has a right, of his own accord, and without consultation with the prosecution, to waive a trial by jury, and to be tried by the magistrate Our statute provides that the magistrate shall demand of a criminal brought before him, whether he waives a trial by jury, and unless he does expressly waive it, a jury is to be summoned. If he expressly chooses to submagistrate, the government has no control over mit himself to the trial and judgment of the him. Although I do not consider the reservation necessary in this article, I would object to making a distinction between civil and criminal cases. When we say that the rights of trial by jury shall be preserved, we do not say necessarily, or by implication that a trial by jury shall not be enforced upon any one. We simply say that parties shall be entitled to it as a matter of right. I see no reason why a distinction should be made between the two cases. In civil cases it is not optional with either party to have the trial by the court, for either party may demand a trial by a jury. The proposition, as contained in this article, does not give the criminal the right to choose, but gives it to both parties.

Mr. MORGAN. True that in minor offences, triable before a magistrate, the accused may waive a jury trial at his option, and choose to be tried by the magistrates. But in the higher grade of offenses, to be tried before higher courts, to allow the district attorney and the counsel for the offenders, by simple agreement, to compel the court to try the criminal, would be something new, unheard of, and highly objectionable.

The amendment was not agreed to.

Mr. WATSON. The chairman of the committee on the Preamble and Bill of Rights is not present, and as there seems to be a disposition to clip and criticise this report, I move, in order to give the chairman an opportunity to be here, that the committee rise.

The motion was agreed to.

The committee accordingly rose, and the PRESIDENT having resumed the chair, Mr. STANNARD reported that the committee of the Whole had had under consideration the report of the committee on the Preamble and Bill of Rights and had made progress thereon.

Mr. NORTH moved to lay the report on the table.

Mr. STANNARD. I rise to a question of order. I submit that without a motion of the Convention the report goes among the special orders ready to be taken up when we go into committee again.

The PRESIDENT. It is usual in such cases, when the committee have not completed its labors, to ask leave to sit again. When leave is granted, the subject matter of consideration lies upon the table as a matter of course, but when leave is not granted the report is properly before the Convention for its disposition.

The report was laid on the table.

ADJOURNMENT OVER.

Mr. LYLE moved that the Convention adjourn until two o'clock, P. M.

Mr. NORTH moved to amend by making it two o'clock on Monday.

Mr. COLBURN. I deem it my duty to vote against any adjournment over. A large portion of the members of this Convention live so far from this place that it would be impossible for them to go home and return within the proposed time. If we are to adjourn over, I want it for a sufficient length of time to allow me to go home also, and that will be a week to say the least. But I am opposed to adjourning over at all. If gentlemen must go home, let them go, but let the rest go on with our business.

Mr. PERKINS. I am opposed to idling my time away for a day or two for the purpose of accommodating a few gentlemen who live near by, and I do not think it is the wish

of a majority of the Convention to adjourn. I hope the motion will not be agreed to.

Mr. DAVIS. Gentlemen have said that their business at home was suffering. Mine, too, is suffering, and I am in favor of bringing this Convention to a close as soon as it can be done and done properly. I hope we shall not adjourn.

The amendment was lost.

The motion to adjourn was then carried, and the Convention adjourned until two o'clock.

AFTERNOON SESSION.

The Convention met at two o'clock.

REPORT.

Mr. SMITH, from the committee on Exemption of Real and Personal Estate, and the Rights of Married Women, made the following report, which was read a first and second time, and laid upon the table to be printed, viz:

REPORT on Exemptions of Real and Personal Estate, and the Rights of Married Women.

SEC. 1. The personal property of every resident of this State, to consist of such property as shall be designated by law, shall be exempted to the amount of not less than two hundred and fifty ($250) dollars from sale on execution or other final process of any Court issued for the collection of any debt contracted after the adoption of this Constitution.

SEC. 2. Every homestead owned and occupied by any resident of this State, not exceeding in value the sum of one thousand ($1000) dollars, shall be exempt from forced sale on execution, or any other final process from a Court for any debt contracted after the adoption of this Constitution; such exemption shall not extend to any mortgage thereon; but such mortgage or alienation by the owner thereof, if a married man, shall not be valid without the signature of the wife.

SEC. 3. The homestead of a family after the death of the owner, shall be exempt from the payment of his debts in all cases during the minority of his children.

SEC. 4. If the owner of a homestead die, leaving a widow, but no children, the same shall be exempt, and the income thereof shall accrue to her benefit during the time of her widowhood, unless she be the owner of a homestead in her own right.

SEC. 5. The real and personal estate of every female, acquired before marriage, and all property to which she may afterwards become entitled, by gift, grant, inheritance or devise, shall be and remain the estate and property of such female, and may be devised or disposed of only by the concurrence of the husband.

ADJOURNMENT OVER.

Mr. SECOMBE. I move that when the Convention adjourn it adjourns to meet on Monday next at ten o'clock, A. M. It is apparent that we have a bare quorum present, and I wish to know what course the Convention intends to take for to-morrow, that we may make our calculations accordingly.

Mr. BILLINGS. I shall oppose that motion now, and always. Our labors have not been performed, and I, for one, shall not consent to any adjournment beyond what is usual, until they are finished. Nor do I wish to remain here on expense, to let others, whose convenience it may suit, return home. Gentlemen say that business requires them to go home. That is the case with all of us. If our business at home is more important than our business here, let us go home and stay there. Duty called me here, and duty will keep me here until our work is done. If necessity were a controling argument I should be on my homeward journey too. But my private interests suffer and must suffer if the public good requires my presence here. If some members leave there will be less speeches made, and we shall get on the faster.

Mr. PERKINS. I am opposed to adjourning over. If some members see fit to go home, let us who remain, continue to do our business. So far as the plea of necessity is concerned I might as well urge it as any others, but I am willing to devote as much time as is necessary to form a constitution, and I do not wish to waste any time here, to allow others to enjoy a trip home.

The motion to adjourn over was lost.

COMMITTEE ON LEAVE OF ABSENCE.

Mr. COLBURN offered the following resolution, which was read, considered and agreed to:

"WHEREAS, It is desirable that the Convention complete the business for which it was assembled at as early a day as possible, and whereas it is desirable that as many members as possible shall be present to participate in the transaction of such business, therefore,

Resolved, That there be a select committee of three appointed upon "Leave of Absence."

PREAMBLE AND BILL OF RIGHTS.

On motion of Mr. HARDING, the Convention resolved itself into committee of the Whole on the report of the committee upon

the Preamble and Bill of Rights. (Mr. COLBURN in the Chair.

Mr. STANNARD. I rise to a point of order. The report of the committee was this morning, by special action of the Convention, laid upon the table; therefore it was not in the general orders, and cannot come before the committee of the Whole for consideration. I move that the committee rise for the purpose of taking that report from the table. I do not make the motion for purposes of delay, but that we may appear right upon the record.

The motion was agreed to.

The committee accordingly rose, and the President resumed the Chair of the Convention.

Mr. STANNARD. I now move that the report of the committee upon the Preamble and Bill of Rights be taken from the table and refered to the committee of the Whole.

The motion was agreed to.

On motion of Mr. SECOMBE the Convention then resolved itself into a committee of the Whole (Mr. COLBURN in the Chair) and resumed the consideration of the report on the Preamble and Bill of Rights, commencing with section six, where the committee left off in the morning.

The section was read as follows:

SEC. 6. Excessive bail shall not be required; nor shall excessive fines be imposed; nor shall cruel and unusual punishments be inflicted.

Mr. DULEY. I move to strike out that section. There is a special committee appointed to take into consideration the subject matter of this section, and it seems necessary, in order that we may have a report from the committee on Punishment of Crimes, that this section should be stricken out. It would seem as though the committee on Bill of Rights had reported almost every subject that could possibly come before the committee on Punishment of Crimes. If they may legitimately do so, why should the other committee be appointed? I am opposed to one committee encroaching upon the jurisdiction of another. It hope we will strike out this section and leave the matter to come up upon the report of some other committee.

Mr. SECOMBE. I am well aware that there is some clashing of the reports of the committees, but it will be the province of this committee of the Whole to strike out from one or the other, according to their judgment, so that there will finally be no clashing in the Constitution. The question with us should he, which is the proper place for each subject matter. This sixth section is purely a declaration of rights, and it seems peculiarly appropriate that it should be retained where it is. If it should be admitted here, and in our judgment the only proper place for it, then if it should come up again in the report of the committee on Punishment of Crimes, there would be the proper place to strike it out. On the other hand if this is not the proper place for it, we should strike it out here, and retain it in another place.

Mr. MESSER. The Chairman of the committee who made this report is absent, and I hope it will not be further considered until he can be present. Some imputations have been cast upon that committee for apparently intruding upon the jurisdiction of other committees, but I can assure gentlemen that the committee had no intention of interfering in the least.

Mr. BALCOMBE. This section properly belongs under the head of Bill of Rights if we adopt such a clause at all.

In those Constitutions which do not contain a Bill of Rights, this clause comes under the jurisdiction of the Judiciary committee, and would be more apt to be put into the report of that committee than in any other. Wherever there is a Bill of Rights this section is contained in it, and properly comes under that head. As to the clashing of reports, it is a matter of minor consequence. Our object is to frame a constitution, and if various committees report various clauses which may perhaps more properly belong to some other committee, we will, as we take up those reports, adopt what we think ought to be adopted, and which we think to be in an appropriate place, without reference to the fact that they did or did not come from the most appropriate committee.

Mr. DAVIS. I do not wish to stick for small points, but it does appear that this subject in the sixth section belongs exclusively to the report of the committee on the Punishment of Crimes. That committee was appointed for something or it was appointed for nothing. If it was appointed for something,

what was it? Was it for the purpose of getting certain members appointed upon unimportant committees, in order that others might get all the important portions upon other committees? I do not say but that this section comes in appropriately here. But that is a matter of after consideration with the committee on Arrangement and Phraseology. If they should see fit to put it under this head finally, I have no objection, but I do contend that for the present, it belongs to the province of the committee on the Punishment of Crimes, and therefore I hope it will be stricken out here, and retained in the report of that committee.

Mr. PERKINS. There seems to be a jealousy between the different committees here, and an apprehension that they have been trespassed upon by the report of the committee on the Preamble and Bill of Rights, and some hard feeling seems to have been engendered against that committee for their presumption in thus encroaching. I do not believe there was any malicious intention upon the part of any one of that committee, nor do I believe that they intended to deprive any one of the honor or glory of making reports upon the different subjects committed to them. It seems to me the feeling results from a misapprehension of the purport of the Bill of Rights. Its object, as I understand it, is to set forth to the world those fundamental ideas and principles which underlie our Constitution. And it seems to me that there would be no impropriety even should the Constitution go on and re-affirm those great principles a second time, even in the identical language of the Bill of Rights. I see no objection to such a course. It seems to me that this jealousy is entirely wrong, and that in fact there has been no trespass upon the rights of any committee.

Mr. BOLLES. I think the committee, in giving us this report, have gone into details more than was necessary, and more than is usual for committees on the Preamble and Bill of Rights to do. But I should regret exceedingly to believe that they designed to exceed their powers. The section under consideration I would regard as eminently proper to be incorporated in the Bill of Rights, whether coming legitimately from that committee or not. It is simple, precise, and expressed in just the language I like. It is the ground work which underlies and sustains a large amount of legislation, and if we were to exclude any section upon this page of the report, it should not be that one. If any are to be stricken out, I would prefer to strike out the two following ones, which are but details of the same idea.

Mr. DAVIS. I wish it distinctly understood that I mean to impute no wrong intention to the committee which made this report. I merely wished to say, that, in my opinion, they did report what should properly come from the committee on Punishment of Crimes.

Mr. BUTLER. I think that committee have done no more than any member of this Convention would have done, had they been members of that committee. They have only followed out precedents which have been set in the formation of other State Constitutions. I think they have done their duty and nothing more. Ever since the appointment of the committee on Punishment of Crimes, I have been of the opinion that they had nothing to do, and I felt thankful for being placed upon a committee whose duties were so light. I had myself no idea of reporting any thing from that committee, from the fact that I was aware that the whole ground would be covered by other committees. I was of opinion that the committee was formed for the express purpose of giving places to some members upon it.

The question was taken on the amendment, and it was lost.

SEC. 7. In all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witness face to face; to have compulsory process to compel the attendance of witnesses in his behalf and in prosecutions by indictment or information, to a speedy public trial by an impartial jury of the county or district wherein the offence shall have been committed, which county or district shall have been previously ascertained by law.

Mr. DAVIS. I move that that entire section be stricken out, and for the same reasons I gave in favor of striking out section six.

Mr. SECOMBE. There has been some talk about following precedents, and about there being men who can see nothing good in what is old, and no good but in that which is new. I do not belong to either of those classes. I do not believe any thing is good

because it is old, nor bad because it is new. I am in favor of adopting in this Convention, so far as we can do so, the precedents set us in the formation of the Constitution of the United States, and which have been followed down to the present day in the formation of the State Constitutions. There are certain principles which have never been declared in any better form, and never can be. Where such is the case, I am in favor of following such precedents. The Constitution of the United States has a clause equivalent to this, declaring the rights therein contained to be inherent rights in the people, and I hope to see it incorporated into our Constitution.

The question was taken on the motion to strike out, and it was lost:

Mr. STANNARD. I move to amend the section by striking out "and" where it first occurs and inserting "or."

The amendment was adopted.

Mr. STANNARD. I now move to strike out the word "meet" and to insert in lieu thereof the word "confront."

Mr. PERKINS. I move to amend the amendment, so as to make that particular clause read "and to be confronted with the "witnesses against him."

Mr. STANNARD. That would give the accused the right to be confronted, but not to confront.

Mr. BILLINGS. I doubt whether that amendment conveys the meaning intended by the committee which reported this bill, or which we wish to convey, for this clause is in favor of the accused, and of his liberty to meet and confront, and not for giving the State the liberty to confront him. It is his right to show by counter evidence that the things alleged against him are not true, and that is the right we intend to secure to him. But a provision "to be confronted" is for the benefit of the accuser and not for the accused. The State always has that right. We do not want to enlarge the powers of the government, but we are legislating for the largest liberty of the party accused.

Now I doubt whether we, as a body, can improve any one of those clauses reported by the committee, and unless error is clearly apparent upon the first flush, we had better not meddle with them. First impressions are generally the best. I consider this Bill of Rights something like the bills of fare laid upon our dinner tables—not the dinner itself, but only as foreshadowing what it may be. It may cover all or more. Now is there a gentleman in this Convention, who does not believe just what this sixth section contains as it stands? Is there a gentleman who believes that excessive bail should be required; excessive fines imposed; or unusual punishments inflicted? Is there a man who believes that the accused should not be heard by himself or counsel; that he should not have the nature of the accusation made known to him; that he should not have the privilege of meeting the witnesses face to face; and that he should not have compulsory process to compel the attendance of witnesses? There is nothing that we can do, but what other persons may and will find fault with. Our labors may be, and will be imperfect, after we expend all our wisdom upon them, but because a thing is imperfect, it is no reason why it should be stricken out entirely. I believe the meaning is conveyed more perfectly by the word "confront" than by the words "to be confronted," and I shall vote accordingly.

Mr. SECOMBE. I believe the gentleman from Fillmore county [Mr. BILLINGS] misconceives the meaning of the words used. I refer here again to the Constitution of the United States, framed by wiser heads than ours, and I find the language there used the same as that proposed by the gentleman from Rice county [Mr. PERKINS]—"to be confronted with the witnesses against him." What does that mean? It means that when a charge is made against any person, he may demand that the government shall bring the witnesses before his face, and that they shall there, in his presence and under his eye, make the charge against him—not that he shall have permission to go off somewhere to meet them, but that the government shall bring those witnesses into his presence.

What is the idea conveyed by the sentence as it stands—"to meet the witness face to face?" What witnesses? For or against him?

Suppose the word "confront" is used, what is the meaning then? Of itself it means face to face, and you have a repetition of the same thing in the same sentence.

The provision proposed, cuts off the right of introducing depositions upon criminal trials. In civil cases it is well known, that if the attendance of witnesses is inconvenient, their depositions can be taken, under certain restrictions of law. But the provision that he shall be confronted with the witnesses against him, compels the government to bring the witnesses bodily into the presence of the accused. I believe that no language can be used which more clearly expresses the idea, than the language proposed by the gentleman from Rice county.

I do not wish to pick flaws in the report, but the object of the Convention, sitting in committee of the Whole, is to perfect the matters which the committees report, according to the best of their present knowledge and ability.

Mr. LYLE. I do not see any particular necessity of altering the language of this section. It says "to meet the witnesses face to face." Now those are the witnesses against him, of course. Then it goes on to state that he shall have compulsory process to compel the attendance of witnesses in his behalf. It seems very plain to me, and I do not think it necessary to discuss such small matters. I hope we shall proceed at once and dispose of the subject.

Mr. BALCOMBE. I rise to express my opinion in favor of the substitute offered by the gentleman from Rice county. It is in the exact language of a clause in the Constitution of the United States. I have a particular regard for that instrument and for its language; and I believe that nearly every Convention which has heretofore formed a State Constitution, has adopted that language. I hope the substitute will be adopted.

Mr. PERKINS. It seems to me that gentlemen upon the other side of the House have misinterpreted the language I propose to employ. One gentleman says it is a very different thing to "confront" or "to be confronted by." But the language I propose to use is "to be confronted with the witnesses against him." The words "to meet the witnesses face to face" are meaningless in my opinion, and would lead to difficulties in their practical application. The language, taken from the Constitution of the United States expresses just the idea gentlemen desire. It is as significant as any language that can possibly be employed, and is beyond quibble as to its meaning.

The question was taken on Mr. PERKINS' substitute, and it was adopted.

Mr. PECKHAM. I move that the committee rise report progress and ask leave to sit again.

The motion was lost.

Mr. SECOMBE. I move to amend in the seventh line, by inserting after the word "behalf," the words, "to have the assistance of counsel for his defense."

Mr. BALCOMBE. I really cannot see the necessity of such an amendment. In the first two lines, the accused is guaranteed the assistance of counsel. The language is—"in "all criminal prosecutions the accused shall "enjoy the right to be heard by himself or "counsel." Now why renew the guarantee in the same section?

Mr. SECOMBE. The first provision, it seems to me, is simply a provision that in all criminal prosecutions, the accused shall be notified, and have the privilege of making a defence; but the provision I propose to insert is of a different nature entirely. The first provision leaves it optional with him whether he will be heard personally or by counsel. I propose to insert a provision to the effect that he shall have the assistance of counsel. For instance, a prisoner appears before the bar without counsel; the court demands of him if he has counsel for his defence; he has none; it then becomes the duty of the government to furnish him with counsel, and not take advantage of his poverty or inability to procure counsel. The government not only pays the district attorney for prosecuting him, but it binds the government to furnish counsel for the defence.

And here again we have the sanction, and not only the sanction, but the binding force of the Constitution of the United States, for we have to frame a Constitution which does not conflict with the Constitution of the United States; and one of the provisions of that Constitution is that every individual under the government of the United States shall have the assistance of counsel for his defence. We are bound to protect citizens in the rights which are given to them by the Federal Constitution.

Mr. BILLINGS. I move to amend the amendment last offered, by striking it out and inserting in the place of it a comma after the word "behalf." That may seem trivial but it is not. If I understand the gentleman's argument, it is based upon mercy to the accused, and he conceives, in his generosity, that the government should furnish every criminal with an attorney. Cases of assault and battery, and other trivial offences before a justice of the peace, are criminal proceedings, but who before ever conceived it the duty of the government to furnish counsel to defend in such cases? Now it occurrs to me that if you insert a comma where I have proposed, and let each part of the sentence refer to its own subject, that will be sufficient for all purposes. We ought not to bind the incoming State, in all future time, to keep in each county or each district, under the jurisdiction of a justice of the peace, an officer whose business it shall be to attend to the defence of all matters of a criminal nature.

Mr. SECOMBE. If I had not a material object in view, I would accept the gentleman's amendment. But the poor, unfortunate criminal would very unwillingly accept, in place of the defence which I propose he shall have, the comma proposed by the gentleman.

Mr. BILLINGS. Will the gentlemen give me the difference in most cases between an attorney and a comma? The one is frequently only a longer pause than the other. (Laughter.)

Mr. SECOMBE. The gentleman from Fillmore, [Mr. BILLINGS] is an attorney himself, I believe, and perhaps he has only been giving a righteous judgment, and I find no fault with it. (Laughter.) I know what the Constitution of the United States says, and it is, that in all criminal prosecutions the accused shall have the assistance of counsel for his defence, and I propose that the Constitution of this State shall adopt the same language; and if in the Constitution of the United States it means that criminals shall have that defence in justice's courts, then it will mean the same in our Constitution.

Mr. BALCOMBE. I will ask the gentleman from St. Anthony to withdraw his amendment and permit me to offer a substitute for the whole section in the words of the Constitution.

Mr. SECOMBE. I will do so.

Mr. BALCOMBE. Then I offer the following substitute for the whole section:

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his behalf, and to have the assistance of counsel for his defence."

I know of no better language than that of the Constitution of the United States, in which to express the idea we wish to convey.

Mr. BILLINGS. I now offer a substitute for the substitute. Strike out all after the word, "criminal" and insert the following:

"Cases involving the life, limb or liberty of an individual, the accused shall have the right to a speedy and public trial by an impartial jury; to be informed of the accusations against him; to have a copy of the same when demanded; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses in his behalf: *Provided*, that nothing in this article shall be so construed as to affect requisitions from Governors of other States upon the Governor of this State for the rendition of fugitive criminals to the Courts having proper jurisdiction in those States in which such criminals are charged with having committed crimes."

The substitute for the substitute was rejected.

The substitute was then adopted.

Mr. BALCOMBE. I now move that the committee rise, report progress and ask leave to sit again.

Mr. SECOMBE. We have agreed to sit here and work. What hinders our sitting here an hour longer?

The motion was not agreed to.

SEC. 8. No person shall be held to answer for a criminal offence unless on the presentment or indictment of a grand jury, except in cases of impeachment, or in cases coguizable by justices of the peace, or arising in the army or navy, or in the militia when in actual service in time of war or public danger, and no person for the same offence shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself. All persons shall, before conviction, be bailable by sufficient sureties, except for capital offences when the proof is evident or the presumption great; and the privilege of the writ of habeas corpus shall not be suspended, unless when in case of rebellion or invasion the public safety may require.

Mr. STANNARD. The word "punishment" in that section does not conform to the Constitution of the United States, and I therefore move to strike it out.

The amendment was not agreed to.

Mr. SECOMBE. I move to amend by inserting after the word "himself" the words:

"Nor be deprived of life, liberty or property, without due process of law."

The amendment was adopted.

SEC. 9. Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character; he ought to obtain justice freely, and without being obliged to purchase it; completely and without denial, promptly and without delay, conformably to the laws.

Mr. LYLE. I move as a substitute for that section the following:

"Every person shall be entitled to a remedy for all injuries and wrongs which he may receive in his person, property, or character, without delay conformably to law."

The substitute was not agreed to.

Mr. BOLLES. I move to amend by striking out all the section after the word "character." The latter part seems to be a repetition of the idea of the former part.

Mr. SECOMBE. It seems to me that the whole section is unnecessary. We have already declared that men have certain inherent rights, among which are life, liberty and the pursuit of happiness; and to secure those rights governments are instituted among men, deriving their just powers from the consent of the governed. If these are inherent rights and governments are instituted to secure them, does it not follow as a natural presumption that persons are entitled to a remedy if deprived of those rights?

The amendment was not agreed to.

Mr. ALDRICH. I move to strike out the words "being obliged to" and the word "it," so that it shall read "he ought to obtain jus-" tice freely and without purchase, completely " and without denial" &c.

The amendment was adopted.

SEC. 10. Treason against the State shall consist only in levying war against the same or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

Mr. PERKINS. I think that section should remain as it is. For one, I am in favor of having treason defined as it is in this section, and so I think every man in this Convention will, when he remembers that charges of treason are made against us, and we are liable to swing for it. (Laughter.) I think treason should only consist in levying war against the State, and in adhering to the enemy and giving them comfort. I think we have not adhered to the enemy, but have separated from them, nor have we given them much comfort. (Laughter.)

The amendments were proposed and the section was passed over.

SEC. 11. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

Mr. ALDRICH. I move to amend by inserting after the word "but," the words "on " complaint in writing."

Mr. PERKINS. The language used in this section is the same that is employed in the Constitution of the United States, and it seems to me to be sufficient. The Legislature can carry out the provision in detail.

Mr. BILLINGS. I am opposed to the amendment from the fact that there are certain circumstances in which seizures of persons should be made without the delay which would be necessary to put the facts, warranting the seizure, in writing. Justices of the Peace and Constables are by law now authorized instanti to suppress riots, and disperse persons engaged in any unlawful act. That provision should not be interfered with.

The amendment was not agreed to.

Mr. ROBBINS. I move to strike out the words "searches and seizures" and insert "search or seizure."

The amendment was not agreed to.

Mr. ROBBINS. I move that the committee rise, report progress and ask leave to sit again.

The motion was lost.

SEC. 13. No private property shall be taken for public use without just compensation therefor.

Mr. DULEY. I move to strike out all after the word "no" and insert the following:

"Man's particular services shall be demanded without just compensation. No man's property shall be taken by law without just compensation;

nor except in case of the State, without such compensation first assessed and tendered."

The amendment was rejected.

SEC. 14. All lands within the State are declared to be allodial, and feudal tenures are prohibited. Leases and grants of agricultural land for a longer term than fifteen years, in which rent or service of any kind shall be reserved, and all fines and like restraints upon alienation reserved in any grant of land hereafter made, are declared to be void.

Mr. BILLINGS moved to strike out the word "agricultural;" which amendment was agreed to.

Mr. BALCOMBE. This is a section of some considerable importance. I must confess that I am not prepared at this time to say whether I am in favor of, or opposed to inserting it in the Preamble and Bill of Rights. There is a great question involved in this section, and over which there has been much discussion, and a great deal of dispute in the State of New York, and in some of the other States of this Union. I wish to refresh my memory upon the question involved in it, before I am called upon to vote for or against it. I therefore move that the section be stricken out, and when we go into the House with it, we can restore it, if the Convention sees fit,—and in the mean time members will have an opportunity to investigate it.

Mr. SECOMBE. I hope the motion will not prevail. The gentleman has alluded to difficulties which have existed in the State of New York, and to the differences of opinion which have existed in that State upon this subject. I presume there has been no difference of opinion about that being an unfortunate state of affairs in New York, which has arisen out of a state of things which is intended to be prevented in this State by this section. In the State of New York there was something like feudal tenures, and if the question now was, whether we should insert a provision in the Constitution allowing such tenures, I should be in favor of the gentleman's motion. But we wish to avoid the difficulties they have had in New York, and therefore I am in favor of the clause remaining where it is.

Mr. BALCOMBE. The fact that this is a very important question induces me at this time to move to strike it out, and then at some future time when we shall have a full Convention, we can move to insert it again. We all know that we have but few members here, and I want to hear the questions involved in this section fully discussed in committee of the Whole at some future time, when each member will have the opportunity of speaking as many times as he desires. If we pass it by now, it comes up in the Convention upon the adoption of it, and then we shall each of us be entitled to speak only fifteen minutes.

Mr. SECOMBE. I do not believe there is a member of the Convention who will oppose the insertion of this article in the Constitution, and I do not believe there is any necessity for any body to speak fifteen minutes upon it. It may be desirable to make some amendments to it. I have not myself given it any particular attention. It may not be in the best form now, but that there will be any objection to it I do not believe.

The question was taken upon the motion to strike out, and it was decided in the negative.

Mr. BILLINGS. I move to strike out the word "fifteen" and insert "fifty."

The amendment was not agreed to.

SEC. 16. No person shall be imprisoned for debt arising out of or founded upon any contract express or implied.

Mr. LOWE. I move to amend that section by adding at the end thereof the words "unless in case of fraud."

I suppose the section as it now stands meets the ideas of gentlemen here. But it is apparent that there are some gross cases of fraud in contracts that ought to be punished, and we ought not to place it out of the power of the Legislature to provide punishment in such cases.

Mr. SECOMBE. I presume it was the intention of the committee which made this report, to provide for what the amendment provides. But it seems to me they did not do it. It says "no person shall be imprisoned "for debt arising out of or founded upon any "contract expressed or implied," no matter what fraudulent circumstances there might be connected with that debt.

The amendment was agreed to.

SEC. 17. The right of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for the payment of any debt or liability hereafter contracted.

Mr. LYLE. The subject of this section

properly belongs to the committee on Exemptions of Real and Personal Estate, and inasmuch as that committee have made a report covering this whole ground, I move to strike the section out.

Mr. BALCOMBE. I hope the motion will not prevail. I am in favor of inserting in the Constitution a homestead exemption clause, but I am not in favor of a clause covering the whole ground, and leaving nothing for the Legislature. I have been the advocate of a homestead exemption law for many years, but there are others in this Convention and out of it who differ with me as to the amount of exemption. For this reason I would not endanger the adoption of our Constitution by inserting in it, an unnecessary clause, which might cause many to vote against it, who would otherwise vote for it. I think, under the circumstances, that this is a matter which we ought to take into consideration. There are many things which I would insist on having inserted in the Constitution, were it not for the peculiar circumstances by which we are surrounded, which I will not now insist upon having in that instrument. I think all of us should be governed by the same spirit. I think all we are called upon now to do, is to provide that the Legislature shall have power to frame an exemption law. Then let that question go into the next canvass, and members of the next Legislature will be elected in reference to it.

Mr. SECOMBE. I agree with the gentleman from Winona [Mr. BALCOMBE] that we better insert in the Constitution such a general clause as this, in preference to the more lengthy and particular provisions of the report of the committee on Exemptions. We should do it not only as a matter of policy, but as a matter of principle. I do not believe it is the province of a Constitutional Convention to legislate in detail. They should only lay down general principles upon which the Legislature shall proceed, and by which they shall be governed. As the section now stands it imposes upon the Legislature the necessity of making laws upon the subject. It says the right of the debtor to enjoy the necessary comforts of life, shall be recognized by wholesome laws. It leaves to the Legislature to say what the amount of exemption shall be. I believe it is a proper provision in the proper place, and therefore hope it will be suffered to remain.

Mr. LYLE. I think it was entirely unnecessary to appoint a committee on Exemption if that committee was to have nothing to do—if its duties could all be performed by the committee on the Preamble and Bill of Rights. I deemed it very necessary that such a committee should be appointed, and also that a clause should be inserted in the Constitution guarding the rights of the debtor, and also a clause guarding the rights of married women.

I think they should be protected by the Constitution, and not be left to the caprice of the Legislature. I think we shall get more votes for the Constitution if we insert in it the report of the committee on Exemption of Real Estate &c., than we shall with only this provision in it.

Mr. BOLLES. I hope the clause will remain as it is. It is a simple declaration of what we, as a body, are ready to start out upon in reference to this question. It is recognized by the community at large as a legitimate subject of legislation. I am in favor of leaving it as it is. Then I am in favor of a good wholesome exemption law, and I hope that we as a Republican party will adopt that as our creed. I happen to be somewhat acquainted with the rural portions of our Territory, and I know that the popular sentiment is in favor of such a law. But I do not think this is the proper time to discuss the details of such a law. When the report of the committee on Exemption shall come under discussion I shall be ready to offer an amendment enlarging the provisions there recommended, to a considerable extent.

The motion to strike out was lost.

Mr. SECOMBE. It is now six o'clock. I I move that the committee rise, report progress and ask leave to sit again.

The motion was lost.

Mr. BILLINGS. I move to amend by inserting between the words "wholesome" and "laws" the word "exemption" and to strike out the remainder of the section.

The amendment was agreed to.

Mr. BILLINGS. I now move that the committee rise, report progress, and ask leave to sit again.

The motion was agreed to.

So the committee rose, and the President

having resumed the chair, the Chairman reported progress and asked leave to sit again.

Leave was granted.

And then on motion of Mr. PERKINS, the Convention adjourned.

TWELFTH DAY.

SATURDAY, JULY 25, 1857.

The Convention met at nine o'clock, A. M.

No quorum being present, on motion of Mr. BILLINGS, a call of the Convention was ordered.

The Clerk proceeded to call the roll when thirty members answered to their names.

A quorum being present all further proceedings under the call were dispensed with.

The journal of yesterday was read and approved.

Mr. PERKINS offered the following resolution, which was read, considered and agreed to:

"*Resolved*, That the use of this Hall be granted to the Rev. Dr. ROBERTS, of the Reformed Presbyterian Church of Iowa, for the purpose of holding Divine service in the same on to-morrow the 26th instant."

WISH OF THE PEOPLE TO BECOME A STATE.

Mr. BALCOMBE. I offer the following resolution:

WHEREAS, It has been determined by the aspiring leaders of the Democratic party to prevent, if possible, the immediate admission of Minnesota into the Union of States as a sovereign and independent State; and whereas it is our belief that nearly every citizen of this Territory is in favor of an immediate admission as possible, therefore be it—

Resolved, That we recommend that the citizens of this Territory hold meetings in their respective precincts or counties, without distinction of party, and express by resolutions their desire upon this important question."

I do not propose Mr. President, to press the adoption of this resolution to-day. I offer it now that it may lay over under the rule and come up in the regular order of business on Monday, at which time, with the permission of the Convention, I propose to make some remarks upon it, showing that it is the design of the leaders of the Democratic party to put every obstacle in the way of the immediate admission of Minnesota into the Union, and I mean to show this by their actions and by their words.

The resolution was laid over under the rule.

COMMITTEE ON LEAVE OF ABSENCE.

The PRESIDENT appointed Messrs. COLBURN, DAVIS and DULEY as the members of the committee on Leave of Absence, ordered yesterday.

On motion of Mr. ROBBINS, the Convention resolved itself into a committee of the Whole upon the report of the committee on Preamble and Bill of Rights, (Mr. COLBURN in the Chair.)

Mr. SECOMBE. I move that the committee now rise. I believe only nine members voted in favor of the committee of the Whole, and seven against it. I believe we are without a quorum and I make the motion to ascertain that fact.

The motion was agreed to.

The committee accordingly rose, and the President having resumed the Chair, Mr. SECOMBE moved that there be a call of the House.

A call of the House was ordered, and the roll being called twenty-nine members (not a quorum) answered to their names.

The Sergeant-at-Arms was directed to bring in the absentees.

After a few minutes,—

Mr. ROBBINS moved that all further proceedings under the call be dispensed with.

The motion was not agreed to.

And then on motion of Mr. SECOMBE the Convention adjourned until Monday morning at nine o'clock.

THIRTEENTH DAY.

MONDAY, JULY 27, 1857.

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain, Rev. E. D. NEILL.

The journal of Saturday was read and approved.

The following resolution, laid over from Saturday, coming up in the regular order of business, viz:

"WHEREAS, It has been determined by the aspiring leaders of the Democratic Party to prevent, if possible, the immediate admission of Minnesota into the Union of States as a sovereign and independent State; and

"WHEREAS, It is our belief that nearly every citizen of this Territory is in favor of as immediate admission as possible; therefore be it

"*Resolved*, That we recommend that the citizens of this Territory hold meetings in their respective precincts or counties without distinction of party,

and express by resolves their desires upon this important question."

On motion of Mr. CLEGHORN, the same was laid upon the table until to-morrow.

PREAMBLE AND BILL OF RIGHTS.

Mr. HARDING. I move that the Convention proceed to the consideration of the report of the committee on the Preamble and Bill of Rights.

Mr. SECOMBE. I understand that that bill is yet in committee of the Whole.

The PRESIDENT. The bill is out of committee every time the committee reports to the Convention.

Mr. ROBBINS. I believe the committee did not ask leave to sit again.

The motion was agreed to.

Mr. BOLLES. I now move that the Convention resolve itself into a committee of the Whole on the Preamble and Bill of Rights.

The motion was agreed to.

The Convention accordingly resolved itself into a committee of the Whole (Mr. STANNARD in the chair,) and resumed the consideration of the report of the committee on the Preamble and Bill of Rights, commencing where the committee last left off, being section eighteen, as follows:

"The right of every man to worship God according to the dictates of his own conscience shall never be infringed; nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any ministry against his consent. Nor shall any control of or interference with the rights of conscience be permitted, or any preference be given by law to any religious establisement or mode of worship. Nor shall any money be drawn from the Treasury for the benefit of religious societies, or religious or theological seminaries."

Mr. MORGAN. I move to amend by inserting before the word "ministry," the words "religious or ecclesiastical."

The amendment was agreed to.

SEC. 23. Every law enacted by the Legislature shall embrace but one object, and that shall be expressed in the title.

Mr. SECOMBE. I move to amend the section by striking out the word "object' and inserting "subject."

The amendment was adopted.

SEC. 24. Any citizen of this State who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall be deprived of holding any office of profit or trust under this State.

Mr. MILLS. I move to strike out the whole of that section and insert in lieu thereof the following:

"Duelling is an evil and shall never be allowed in this State."

Mr. SECOMBE. I hope the amendment will not prevail. It seems to me that there is no better way of preventing the evils of dueling than that proposed in the section as it is reported from the committee, and I am very much in favor of it.

Mr. WILSON. I am in favor of the amendment. I am in general opposed to attaching any punishment to any crime beyond that which the court which convicts the individual may inflict. The court before which the accused is tried, knows the circumstances under which the crime was committed, and therefore knows better than anybody else the punishment it deserves. The court, therefore, is the proper tribunal to inflict punishment. This legislating in our Constitution, and saying that in every case of a certain offence, there shall be, so to speak, a revisionary punishment, which shall attach, is wrong. We can probably all say, and I can say, that I believe that dueling is always wrong, but there are times and circumstances when the wrong, if not justifiable, is certainly an excusable wrong.

Another thing: wrong or right, the provision will be got around in some way. There are times and circumstances in which men will fight duels. Take, for instance, the case of the present Governor of Illinois, Mr. Bissell. He sent a challenge. Who blamed him for it? The citizens of his own State took him up and elected him Governor. Who believes he was wrong in the course he took? He believed it was his duty to do as he did, and he made the champion of States' rights in the south "crawfish,"—to use an expressive phrase. He did a good work for the Free State party. He showed southern men that they could not abuse Free State men with impunity, and he gave a check to the growing opinion of the South that Free State men were cowards, and hiding themselves under the plea of morality, would not fight. That case has made a great many Southern

Congressmen cautious how they challenge Northern men.

Again, take the case of Burlingame and Brooks. Shall we attach an eternal punishment to such an act as that of Burlingame's? Shall we go beyond the punishment which the court might inflict in such a case as that? I am opposed to it, and I would not have this Convention anticipate all cases. I should not wonder if there were times when the most moral and religious of men in this Convention should justify what this section condemns. Circumstances might compel them to, and hence I would not inflict such a punishment for such an offence. Let such cases take care of themselves, for we have no fighting men among us, and hence no necessity of this provision.

But I said such a provision would be evaded. In the State of Illinois their Constitution forbids dueling, and how did they get along with Bissell's case? Why they said he was not at the time a citizen of the State, —being out of it at the time—and therefore not a violation of the law. I think that was a quibble myself; but it shows that people will get around the provision one way or another. When does a man fight in his own State? It is almost the uniform practice to go outside of the State. But why select out this crime, as though it were the most henious of all crimes, and provide for it punishment in the Constitution? Why not put in something about murder, polygamy, or many other crimes? I hope the amendment will be adopted. It is true such a provision has been incorporated in the Constitutions of some other States, but that is no reason why we should follow their example. We should use our own judgment, and not follow because others have taken the lead. It may be well to look to precedents, and to look well before we depart from them, but I am not in favor of this provision.

Mr. ROBBINS. I move a substitute for the substitute, and that is to strike out of the original section all after the word "offending," and insert in lieu thereof the words,

"Shall be subject to such punishment as the Legislature shall determine by law."

Mr. MORGAN. I am opposed to this section in this place. The Bill of Rights does not seem to me to be the proper place for inserting a code of punishment for offences. Punishment for crimes are usually contained in the statutes, and not in the Constitution. There are many worse offences than dueling, and to say that a man who has either fought a duel, or has been connected with one, shall be forever disqualified for holding office, is going a good ways. A man may be guilty of manslaughter, or highway robberry, and be in State prison as a punishment for the offence, yet if he is pardoned out one day before the expiration of his sentence, he is restored to all his civil rights; but a man who has been connected in any way with a duel, cannot, if this section is adopted, be restored to his civil rights without a change of the Constitution.

I object to this placing in the Bill of Rights so many things which are so foreign to its object. The Bill of Rights is a statement of certain rights and privileges which are to be forever assured to the people of the State, and it is never supposed that it will treat in detail of the punishment of this or that offence. The matter of punishment of crimes is a proper subject of legislation, and there it should be left.

Mr. ALDRICH. I must say that I am opposed to the section entirely, and I think it better to strike it out wholly, than to adopt the amendment or substitute. At the same time I am as much opposed to dueling as any man, but cases have arisen when it was almost absolutely necessary for a man to stand up to his rights, even to the extent of fighting a duel. I know the Governor of Illinois, [Mr. Bissell], and when he sent that challenge to the arch nullifier of Mississippi, there was not a citizen of Illinois who was not proud of Governor Bissell, and not until he was nominated for Governor, was the matter even regarded in other than the most approving light.

I think we had better leave the matter with the Legislature. If we put all of these things into this report, we shall have something entirely different from the Bill of Rights. If the gentleman will move to strike out the whole section I will vote for it.

Mr. ROBBINS. I will, with the consent of the Convention, withdraw my substitute.

The amendment offered by Mr. MILLS was then agreed to.

Mr. MORGAN. I move to strike out the whole section as amended.

Mr. SECOMBE. I rise to a point of order. The Convention have just determined that the section shall remain in a certain shape, and it cannot be in order to strike it out.

The CHAIRMAN thinks the point of order well taken, and that the motion is not admissible.

SEC. 25. The criminal code shall be founded on principles of reformation, and not of vindictive justice.

Mr. LOWE. I move to strike out that section.

The motion was agreed to.

SEC. 27. The blessings of a free government can only be maintained by a firm adherence to justice, moderation, temperance frugality and virtue, and by a frequent recurrence to fundamental principles.

Mr. SECOMBE. I move to strike out that section. There is nothing in it I disagree with, but it seems to me that it is a simple dissertation; that it does not enunciate any right of the people; and therefore ought not to be incorporated in the Bill of Rights.

Mr. BILLINGS. Our proceedings in disposing of this report, reminds me of the boy with the drum, who, not exactly understanding where the music came from, deemed it his duty to pull it to pieces, supposing that he should find something inside that would explain the matter. Here gentlemen say they have no objection to certain principles; that they believe they are true, but yet are in favor of striking out the section containing them. Look at section twenty-fifth which we have stricken out: "The Criminal Code shall "be founded on principles of reformation, "and not of vindictive justice." Is not that a truism? Is there a man here who does not believe the principles there asserted? And am I not justified in saying that those who voted "aye" say that it shall be formed upon principles of vindictive justice? I say it is better to affirm and re-affirm a good principle, than by striking it out, to leave it without affirmation. Now this section declares that "the blessings of a free government can only "be maintained by a firm adherence to jus- "tice, moderation, temperance, frugality and "virtue, and by a frequent recurrence to fun- "damental principles." That is true; those principles underlie all good governments and all good societies. The characteristics which distinguish a good citizen, characterize a good government. What is good for a man in his individual capacity—those virtues which he should nourish as an individual, are good for the state and for communities. Now will it do any harm to say that these private virtues should be carried out in our government? Why we might as well say that the whole Bill of Rights is surplusage, and move to strike it all out at once. I say strike out every other clause, but leave me this 27th section.

Mr. SECOMBE. I desire to say, in explanation, that I do not consider that when I vote to strike out a section, I am denying the principles that are therein set forth. This is not a bill of principles and doctrines that we have under consideration, but a declaration of rights which we believe belong to the citizens of this State.

As the gentleman has referred to section twenty-five, I will say, that this and that section differ materially. That section, as it stood before it was stricken out, did enunciate a right, and that was, that no person should be punished under a criminal code which was formed upon principles of vindictive justice. But it was the pleasure of the committee to strike that out. But section twenty-seven enunciates no right or privilege, but merely a general principle which no one will dispute.

Mr. BOLLES. I hope the motion to strike out will not prevail. It is certainly true that in this article proposed to be incorporated in our Constitution we not only assert a fact, but declare to the world what are the principles upon which we base our Constitution. This section, in a short and comprehensive manner, enumerates some of those principles, and it seems to me proper that in summing up this Bill of Rights, that this final section should be incorporated in it.

The motion to strike out was lost.

Mr. MORGAN. Will it be proper now to refer back to section twenty-two?

The CHAIRMAN. It will if there is no objection. The chair hears no objection.

Mr. MORGAN. Section twenty-two reads as follows:

"No lottery shall ever be authorized by this State, and the buying and selling of lottery tickets is hereby prohibited."

Now I move to strike out all after the word "State," and my reason for the amendment

is that the first part of the section is in the nature of a prohibition upon the Legislature, and as such very properly in this Bill of Rights; but the second part is a matter of legislation merely, and should be left to the control of that body. It is departing from all correct principle to enact a law in the Bill of Rights.

The amendment was rejected.

Mr. BILLINGS. I move to add the following section:

"SEC. —. To guard against transgressions of the high powers which we have delegated, we declare everything in this article is excepted out of the general powers of government, and shall forever remain inviolate, and that all laws contrary thereto, or contrary to this Constitution shall be void."

Mr. MORGAN. It seems to me that such a section would not work very well, as some of our propositions in this Bill of Rights are affirmative and some are negative. It is a very unusual provision, and I must confess I do not see how it can operate.

Mr. PERKINS. I do not see the need of a section of this kind. It does not add any particular sanctity or obligation to the Constitution. That all enactments of the Legislature, in contravention to this Constitution, shall be void, is certainly a principle which cannot be gainsayed, and it need not be affirmed and reaffirmed. The acts of the Legislature which conflict with the Constitution must be void, and it seems to me folly to add a section of that kind.

Mr. WILSON. I certainly am opposed to that amendment, because, as has just been stated, the facts asserted in that section lie at the very foundation of all government. And the idea that the Constitution is above all law is something which needs no affirmation.

Mr. BILLINGS. My idea of the necessity of this section arose from the fact that we have in this preamble enumerated certain rights as belonging to the people. But there are still remaining with the people a large number of rights which we cannot enumerate, and to guard those unenumerated rights, I proposed that section.

Mr. WILSON. I think the section has just a contrary effect from what the gentleman intends.

The amendment was withdrawn.

Mr. ALDRICH. I offer the following as an additional section:

"SEC. — The enumeration of the foregoing rights shall not be construed to impair or deny others retained by the people."

Mr. MORGAN. That is almost in the very language of the Constitution of the United States, which is in these words:

"The enumeration in the Constitution of certain rights shall not be construed to deny or disparrage others retained by the people."

The amendment was agreed to.

Mr. PERKINS. I move to strike out section twenty-two from the Bill of Rights.

The CHAIRMAN. The Chair will put the question if it is not objected to.

Mr. DAVIS. I object, as we have already passed over that section.

Mr. WILSON. I move to amend the thirteenth section.

The CHAIRMAN. The Chair will entertain the motion if there is no objection.

No objection was made.

Mr. WILSON. I move to add to the section the words—

"And the jury or Commissioners assessing the damages shall not take into consideration any advantage which shall result to the owner on account of any improvement for which it was taken."

I offer the amendment for the folllowing reasons: Where public improvements, such as railroads, pass through the country, they do great injury to the property of individuals, and in such cases it is customary to appoint Commissioners or a jury to assess the damages. Now those Commissioners or jury in assessing the damages, take into account the benefit which the individual damaged receives from that railroad or other public improvement running through his farm. That is unjust. His neighbor by his side, and the whole community around him, are reaping the benefit of that public improvement, as much as he is, and yet he has to pay for the benefit which he receives, while they pay nothing. I think it is palpably wrong.

Mr. LOWE. I hope the amendment will not prevail. It seems to me that it infringes upon the province of the Legislature. It strikes me that the section as reported by the committee is all that ought to be incorporated into the Constitution. What is just compensation ought to be left to the Legislature to decide. The gentleman says that in assess-

ing damages, to take into consideration the benefit accruing from the public improvement, is palpably unjust. Now to me it does not appear so. The very fact that juries have decided so, proves to me clearly that it is not palpably wrong. If that is the custom in all parts of the country, why the gentleman's amendment settles the question against the custom and sense of the country,—which is itself palpaply wrong.

At the rate we are going on, it seems to me that we shall infringe upon the legislative power of the government to a very great degree. We are doing more than ought to be done by any Constitutional Convention—we are legislating too much in the Constitution.

Mr. WILSON. The very reasons adduced by gentlemen in favor of leaving this out, are the most cogent reasons for inserting it. Why, it is our duty, as a Constitutional Convention, to say what the Legislature shall and shall not do. The very fact that Legislatures have heretofore declared that the benefits derived from public improvements, may or shall be taken into account upon the assessment of damages sustained by an individual upon those works, proves that it is necessary to insert such a provision into the Constitution, so that subsequent Legislatures cannot be bought up by these mammoth corporations, which are able to buy every Legislature which ever sat in this Territory.

A and B, for instance, have farms side by side, and a railroad passes through the country cutting off ten acres of A's farm. There is the loss of that amount of land to him, and the extra expense of making fences, &c. B through whose farm the road does not pass, receives an equal amount of benefit as A. Now when the Commissioners or jury come to assess A's damages, they say to him "your remaining "fifty acres are worth fifteen dollars more per "acre than they were before the railroad was "built, and that amounts to seven hundred and "fifty dollars, which must be deducted from "the damages you received by having the ten "acres taken for the road." B's farm, and all the others go free. Now why should A pay any more than any other person who is equally benefitted? There is no reason for it, except that these corporations have been base enough and rich enough to buy up the Legislature to make laws that suit their convenience.

Mr. SECOMBE. I am obliged to differ with the gentleman from Winona. I believe that the rule he inveighs against is eminently just and equitable, and it has been adopted in all the States. This is the principle. If an individual is benefitted vastly more than he is injured, or if he is benefitted a little more than he is injured, he shall not receive the full amount of damages, independent of the benefit; but that the benefit shall be offset against the damages. But the gentleman says that in the operation of this rule one man is benefitted more than another, and he complains of that result. That is no new complaint. We read in a very old book of certain laborers, a part of whom commenced laboring with the morning, a part in the middle of the forenoon, others at noon, and others at a late hour of the night, and each of them received the full pay of a day's labor. But the man who commenced in the morning made complaint because the eleventh hour man had been paid as much as he had. But he was rebuked. He had received all that belonged to him, and it was none of his business if the eleventh hour man had received more.

The same principle applies here. A has a farm worth five dollars an acre, and likely to be worth no more for years to come. But a railroad passes through his farm and takes away fifteen acres, and he is thereby deprived of what it is worth, being seventy-five dollars. He should receive compensation for that seventy-five dollars. But by the railroad passing through his farm, the balance, say one hundred acres, is increased in value five dollars an acre. The value is raised by the very act by which he lost the seventy-five dollars. Now the gentleman says there are other farmers along the road, but not touching upon it, who consequently lose none of their land, but receive a benefit equal to him through whose farm the road passes, and therefore they make more than he does. Not that he loses anything; not that he is injured, but that others make more than he does. Now the increased value of his one hundred acres is five hundred dollars, and deducting from that seventy-five dollars, leaves his benefit four hundred and twenty-five dollars by the operation. But says the gentleman, here is his neighbor who makes five hundred

dollars, and it is unreasonable. It seems to me it is very reasonable, just and right.

However this may be, it is a proper subject to be left to the determination of the Legislature; and I am willing to leave it to that body to say by what rule of evidence that just compensation shall be arrived at. If it is the opinion of the Legislature that it is just and reasonable that where a public benefit is carried on, a person who holds private property which is taken for public use, shall receive the full compensation for that property, making no allowance for the benefit he receives, I shall be willing to let it go in that way. But I am satisfied that no Legislature would ever make any such rule.

Mr. PERKINS. In this thirteenth section an important principle is laid down, and it is enunciated in almost if not all the Constitutions of the several States, and is contained in the Constitution of the United States itself, in the words:

"Nor shall private property be taken for public use without just compensation."

—I am opposed, however, to the amendment offered by the gentleman from Winona, because it is, in my opinion, an innovation which ought not to be made. That clause in the Constitution of the United States, and in other States, has received an interpretation by many judicial decisions so that its meaning cannot be mistaken. I think the almost universal decision has been that under that clause no private property can be taken without just compensation in money. That is, if land has been taken for the public use, the actual value of that land at the time must be paid in money, and you cannot offset the advantage likely to accrue to the property holder from the taking of his property. It has received this definite and precise signification, and it seems to me the section, as it stands, goes far enough, and that no attempt should be made by us at this time to tie up the hands of the Legislature. The Legislature has the right to say that if the person whose property is taken sets a value upon his property beyond its real value, that the benefit which he derives from that public appropriation of his property may be offset. But that is as far as they have ever had any right to go under this clause of the Constitution.

But further than that, it is improper to introduce a principle in the Constitution which properly belongs to the legislative department of the Government. Let us take a provision which is already construed by existing judicial decisions, and rest content with that. That is the safest course.

Mr. COLBURN. I trust the amendment will not be adopted, and my particular reason is that this is not the place for a provision of that kind. I conceive that the amendment partakes strongly of the nature of legislation, and I shall oppose the introduction of anything into the Constitution which partakes so strongly of legislation as this does. If it should be incorporated anywhere in that instrument it should be under the head of the rights and privileges of corporations. But I am opposed to it here, and opposed to it elsewhere in the Constitution.

Mr. DAVIS. For my part, I am in favor of the amendment, because I believe it is founded upon principles of justice and equity. I had prepared a similar amendment myself, though I was not present when the clause was regularly under consideration. It is not just, in my opinion, to take into consideration in such cases, the increased value of the remaining property. I believe that where a public improvement of the kind mentioned is made, and the whole community is benefitted, they should all be compelled to contribute, and I am in favor of inserting that provision here because I think this is the proper place for it, so that no future Legislature can get around the provision. If our Legislatures can be bought up as they have been heretofore, it is proper and just that we should put up the bar against their acts. As to this section, without the amendment, having given general satisfaction wherever it has been adopted, I beg leave to differ with gentlemen in that opinion. It may have given general satisfaction to corporations, but it is not true that it has given satisfaction to the farmers, and those who are most likely to be injured by the operation of it. I knew an instance where one man was injured to the amount of hundreds of dollars, and he received a mere nominal compensation for the damages, while his neighbors, who received equal advantage with himself, were not compelled to contribute anything toward the right of way of the road which caused the benefit and the injury.

As to this being an innovation, I am fairly sick of hearing that argument brought before this Convention. If we are not able to walk alone let us go home. I take it that we are able to think and act for ourselves, and I do not think it is necessary for us to go back and ascertain what has been heretofore, before we shall decide what we shall do. We are able to decide for ourselves, and let us do it. Let us hear no more of this matter of innovation.

I favor the amendment and hope it will be adopted, because I believe the community are in favor of it, and because I believe the farmers throughout the country and others holding land will sanction the proceeding of the Convention, should we adopt this amendment. Let us show to the farmers that we are not in favor of giving monopolies the power of trampling them under foot; and they will show us, in turn, that they will sanction our doings.

Mr. BALCOMBE. I rise not to discuss the question properly before the committee, but to ask a favor of the committee. Yesterday I offered a resolution and gave notice that I should desire to make some remarks upon it to-day. Since I came into the Capitol this morning, I have been into the other Hall of this building and have heard a discussion going on there in which this resolution was referred to, and before that discussion goes out to the world, I desire that my own remarks upon my own resolution should first appear. To enable me to make those remarks at this time, I ask the favor of the committee that they rise and ask leave to sit again. With the consent of the committee, I will make that motion.

The motion was unanimously agreed to.

So the committee rose, reported progress and asked leave to sit again.

Leave was granted.

On motion of Mr. BALCOMBE, the report of the committee of the Whole was laid upon the table and made the special order for to-day at two o'clock.

On motion, the rules were then suspended by a two-third vote so far as to enable the Convention to take from the table the resolution offered by Mr. BALCOMBE, yesterday.

The preamble and resolution introduced by Mr. BALCOMBE on Saturday, having been read as follows:

WHEREAS, It has been determined by the aspiring leaders of the Democratic party to prevent, if possible, the immediate admission of Minnesota into the Union of States, as a sovereign State, and

WHEREAS, It is our belief that nearly every citizen of this Territory is in favor of as immediate an admission as possible, therefore be it

Resolved, that we recommend that the citizens of this Territory hold meetings in their respective precincts or counties, without distinction of party, and express by resolves their desires upon this important question;

Mr. BALCOMBE said, [Mr. WILSON in the Chair] I wish it distinctly understood before I proceed to make any remarks upon the resolution before the Convention, that I am not accustomed to making speeches; that I do not rise simply for the purpose of making a speech; and that as I am not a candidate for the United States Senate, it will not be expected that I should make a three hour's speech. I rise simply to perform what I consider to be a duty to my constituents, to my party and to myself. In some respects it is a painful duty; in others it is a pleasurable one.

The resolution which I offered on Saturday, distinctly charges upon the *leaders* of the Democratic party a determination to prevent Minnesota from going into the Union as a State, and I promised when I offered it, to prove by their own knowledge, by their own connection with and actions in parliamentary bodies heretofore, that they knew that this Convention had proceeded in a legal and regular manner; and that the only conclusion any one can come to from their actions, from the assembling of this Convention up to the present time, is that their object is to defeat the wish of the people, which is to go into the Union as a State immediately. I also promised to prove that the leaders of that party knew before assembling, that they were in a minority in this Convention, and expected that it would proceed to business in the manner which it has done.

The defence they make for their course, will be found in the four following points: First, that the Republicans demanded that all those who presented certificates of election from the proper officer within the limits of the proposed State should be permitted to take their seats and be qualified, in accordance with the general rule that a certificate is

prima facie evidence which always entitles the possessor to the seat in the first instance.

I insist that such is the general rule governing all deliberative bodies. That there have been exceptions to the rule, I do not deny. That parties have, in the heat of party strife, seen fit in certain instances, to accomplish certain party ends, to directly violate that rule, I do not deny. But are exceptions to a rule to be followed in preference to the rule itself? No man will contend for that. But an exception to that rule, in the New Jersey case, in the House of Representatives of Congress, has been paraded before the public, as an instance of what the rule is. I deny that that case was decided in accordance with the general rule. I insist that it was an exception; and assert that that violation of the general rule did much to bring about the defeat of the Democratic party, in 1840. In 1839, their leaders and members in Congress violated the general rule of parliamentary bodies, and in doing so kept out of their seats in the House of Representatives, members who appeared there with their certificates. That departure from the well known, and general rule, has received the condemnation of the members of all parties, ever since, and will for all time to come.

I say, sir, that it has been the universal rule to admit members who presented *prima facie* evidence of election—that is to say, certificates of election from the proper officers in the first instance. Look over the journals of the United States Senate and House of Representatives, and of all the legislatures in the country, and you will not find one instance in twenty where that rule has been departed from. I propose to refer this Convention to the remarks made, and the course taken, in the United States Senate in a case which might be considered an extreme case; and where the general rule might have been set aside with some show of propriety. But even in that instance it was not set aside. On the sixth day of December, 1852, Hon. Archibald Dixon presented his credentials to the United States Senate, claiming a seat in that body. Objection was made to his being qualified, *on the ground that the seat which he claimed was not vacant, and that there were already two seats filled by Senators from Kentucky.* A motion was made to refer the matter to a committee. The Senate refused to do it. In that case the Senator came with with a certificate from the Governor of his State,—the *prima facie* evidence that he was entitled to a seat in that body. On the other side, it was contended that there was *prima facie* evidence that Mr. Meriwether still occupied a seat in that body, and that there was no vacancy. The Senate would not refer the matter, but immediately entered upon its consideration, and by common consent continued to discuss it until the claimant was admitted to his seat and sworn in. This was a contest between two who had presented the *prima facie* evidence—the certificate. Those who spoke in favor of Mr. Dixon's right to a seat presented to the Senate numerous instances where the certificate of election had been considered *prima facie* evidence, and that the Senate had been governed by it in its action. It was declared to have been the universal rule governing the actions of that body, to admit to a seat the man who presented his certificate of election—one case only excepted, which seems to have passed by unanimous consent. The assertions of those supporting Mr. Dixon's right, were not denied by the opposition. In their remarks they tacitly and repeatedly admitted that if another person was not occupying that seat at the time, (as they contended there was,) the claimant would have a right to take it and be sworn in as a member; and that after that, the contestant, if there was one, could come in and contest the right. In the course of that discussion, Mr. Seward said:

"The case is, *prima facie*, complete; and in receiving Senators it is the custom, and has been the custom of the Senate of the United States, from the foundation of the Government, to receive the Senator who comes *prima facie* entitled to fill a vacancy known and admitted to exist, with a commission given him by the Legislature of the State in whose service the vacancy has arisen."

Mr. Dawson said:

"I think, Mr. President, that during your long experience in this body you have never known such an application as the present one to be denied. I do not think there has been any case since you occupied that chair, or have been a member on this floor, where a member presenting the broad seal of his State, was not permitted to occupy the seat, and if there was a contest, it was to be settled afterwards. * * * It is said that there are doubts as to whether Mr. Dixon is entitled to the

seat. If there be doubts, as the Senator from Tennessee suggests, to whom should you give the benefit of them? Of course to the party claiming the seat under the broad seal of one of the sovereign States of this Union, equally interested with us in preserving the Constitution. Hence it is that I say he should be permitted to take his seat, and then when the report comes in, in the language of the Senator from South Carolina, we can consider it maturely. By the course that I have proposed, we shall stick to precedent, and cannot be charged with evasion, or with changing our course for any consideration."

Mr. Jones, of Tennessee, said:

"The certificate of election is the highest testimonial that can be presented. It makes out a *prima facie* case, and has been so held by the Senate from its organization to the present day with but one solitary exception, that I have been able to find in the journals."

Mr. Jones further said:

"But, sir, while gentlemen admit the commission is *prima facie* evidence, they say it is not conclusive. Well, it may not be conclusive in every instance that may possibly arise, but is it not somewhat remarkable that in all the cases which have arisen from the formation of the Government of the United States to the present day, it has been regarded as conclusive, except in one solitary case? * * * What were the motives which operated upon the minds of the Senate in that case we are not informed. * * * But all of us can think of many cases, yea, they are innumerable, where the certificate of election is held to be not only *prima facie*, but conclusive evidence of title so far as holding the seat is concerned.

"Who does not remember that the Senator from Florida, (Mr. Mallory,) came here and presented his credentials or certificate of election from the Legislature of Florida, and asked to be permitted to take his seat on this floor, and that that seat was contested? What was done? Does not every Senator know that the certificate of election was held to be valid? And that Mr. Mallory was permitted to occupy a seat, although that seat was contested, and contested for six months before a decision was made?

"There again I illustrate this point by another case which occurred upon the floor of the Senate in relation to the claim of the distinguished Senator from Illinois, Mr. Shields. Who will not remember that when he came here bearing the broad seal of the State of Illinois, and asking a seat on this floor, a Senator rose and asked that his credentials should be referred to a committee for examination, and who will fail to remember with pleasure, as I do, that the Senate refused to refer them to a committee, and granted him a seat on this floor. * * * But, sir, go further back. Here is the contested election of Potter *vs.* Robbins. Here were two gentlemen standing before the Senate of the United States, each claiming to be a Senator from the State of Rhode Island, and each holding a commission from the Legislature of that State. That is a stronger case, if possible, than any which I have presented. Here are two gentlemen coming before the Senate, each bearing a certificate of election from the Legislature of the State to which they belong, and each claiming to be a Senator from the State of Rhode Island. What was the decision of the Senate in that case? It seems to my mind perfectly clear, that the decision of the Senate in that case is conclusive, if any decision whatever can be conclusive as a precedent in this body. It was decided, after debate, that Mr. Robbins was entitled to be sworn in and take his seat in the first instance, leaving his election to be determined by the investigation of a committee, and he was ultimately confirmed in his seat in the Senate.

"Mr. Robbins came here and presented his credentials, and afterwards another gentleman came and presented his credentials, and the Senate instead of referring them to a committee, asserted that Robbin's claim was good, and permitted him to take his seat, and then the contest was referred to a committee and adjudicated.

"There is still another case. On the fourth of March, 1801, Uriah Tracy, of Connecticut, having presented his credentials under an appointment by the Governor, and the seal of the State, an exception was taken to his credentials, and debate ensued thereon, but on the motion that he be permitted to take the oath required by the Constitution, it was decided in the affirmative. This was a question with regard to the validity of the credentials, but still the claim to a seat was taken in advance of the adjudication of the question. I repeat, that so far as I have been enabled to examine this question, I find but one solitary case where a member who has come here with the regular credentials of election, has been refused permission to take his seat."

Mr. Mangum said:

"Sir, I had hardly expected to live to see us re-enact the scenes of the New Jersey case, which happened some years ago in the House of Representatives, which was burned with a brand that was heated to a white heat by the public reprobation of the whole United States—by men of all parties."

Now Mr. President, at the very time this matter was under discussion in the Senate of the United States, Mr. SHIELDS was a member of that body, and Ex-Governor GORMAN was a member of the House of Representatives, and the President of the Convention which sits in the other end of this Capitol, was the Delegate in Congress from the Territory of Minnesota. This principle, then, was re-asserted and not controverted in the very pres-

ence of those men—the present leaders of Democratic Party in this Territory. They had personal knowledge of this principle and had heard it reiterated over and over again; and yet, sir, one of those very leaders has the hardihood to come into this building and assert that the exception which was presented in the New Jersey Case, was the rule itself, and has acted accordingly, and the other leaders have acted with him.

Again, sir, questions of the same kind have arisen in the Territory of Minnesota. I remember the cases of TILLOTSON and HANSON, and TAYLOR, and LUDDEN, and MCLEOD, who presented their certificates of election to the Territorial Legislature, and I remember, too, that Messrs. MURRAY, SETZER, ROLETTE, FLANDRAU, BAILLY, NORRIS and STURGIS, [Mr. KINGSBURY was a contestant] now members of the Convention in the other Hall were members of that Legislature, and that some of them took the ground that the member presenting a certificate presented *prima facie* evidence that he was entitled to a seat, and that he must have his seat in the first instance, and if there were others who wished to contest that seat, his claim must be referred to a committee. Those gentlemen, then, were cognizant of this rule, and acted in accordance with it. They know that the Republicans did not insist upon any thing but what was usual and parliamentary, when they insisted that every person who presented a certificate from the proper officers within the limits of the proposed State was entitled to a seat in this Convention in the first instance.

I remark here that I do not propose to enter into the merits of the question whether certain members who presented their certificates as *prima facie* evidence, were really entitled to their seats in this Convention or not, in case a contest was made. We had nothing to do with that question, as a body, at that time, nor have we now until a contestant comes. It would have been an insult to them to have refused to receive their certificates and admit them as members of this body, and an insult to the officers who gave them their certificates. Nor is it our business to go into that matter voluntarily ourselves. Who is to blame if any one occupies a seat in this Convention who is not entitled to it? Not the members of this Convention. Has the matter ever been brought before them in a tangible and legal shape? Not by any means. Who then is in fault? Those who suppose they really had rights to seats here, and have not claimed them, and those who sustain them in their course, if anybody.

The second excuse which the leaders of that party make for their course is, that the Republicans insisted that the Clerk or Clerks of the board of County Commissioners was the only legal source from whence the *prima facie* evidence could come.

Here I propose to read that section of the Enabling Act which refers to the manner of conducting the election of Delegates to this Convention. It is as follows.

SEC. 3. *And be it further enacted,* That on the first Monday in June next, the legal voters in each representative district, then existing within the limits of the proposed State, are hereby authorized to elect two delegates for each representative to which said district may be entitled according to the apportionment for representatives to the Territorial Legislature, which election for delegates shall be held and conducted, and returns made, in all respects in conformity with the laws of said Territory regulating the election of representatives; and the delegates so elected shall assemble at the Capital of said Territory, on the second Monday in July next, and first determine by a a vote, whether it is the wish of the people of the proposed State to be admitted into the Union at that time; and if so, shall proceed to form a Constitution, and take all necessary steps for the establishment of a State Government, in conformity with the Federal Constitution, subject to the approval and ratification of the people of the proposed State.

Now, sir, what is the law? I refer to section 33, chapter five of the Revised Statutes, and find the following:

SEC. 33. On the twentieth day after the close of any election, or sooner, if all the returns be received, the clerk of the board of County Commissioners, taking to his assistauce two justices of the peace of the county, shall proceed to open said returns and make abstracts of the votes in the following manner:

The abstract of the votes for Delegate to Congress shall be on one sheet; the abstract of votes for members of the Legislative Assembly shall be on one sheet; and the abstract of votes for county and precinct officers shall be on another sheet; and it shall be the duty of said clerk of County Commissioners immediately to make out a certificate of election to each of the persons having the highest number of votes for members of the Legislative Assembly. * * * * And

to deliver said certificate to the person entitled to it.

Also 38, chapter five:

When two or more counties are united in one council or representative district, the clerk of the board of County Commissioners of the county last established, shall within twenty days after the day of election attend at the office of the clerk of the board of county commissioners, of the senior county and in conjunction with the clerk or the clerks of the senior county or counties, shall compare the votes given in the several counties composing such council or representative district, and said clerks shall immediately make out a certificate of the person or persons having the highest number of votes in such counties * * * * which certified shall be delivered to the person entitled to it. * * * * * *

It is made the duty then, of the clerk or clerks of the board of County Commissioners, to give the certificate, and that certificate when presented, is *prima facie* evidence of election, and under it the member is entitled to have and hold his seat until it is proven, by actual evidence, that there was fraud or illegal voting, or something of that kind in his election, back of the certificate, sufficient to give the seat to the contestant. The returns, it is true, are made to the Secretary of the Territory, but he does not give certificates.

Section 35 of the same act is as follows:

SEC. 35. The clerk of the board of Commissioners immediately after making the abstracts of the votes given in his county shall make a copy of each of said abstracts and transmit it by mail to the Secretary of the Territory who with the Marshal of the Territory or his deputy in presence of the Governor, shall proceed within fifty days after the election, and sooner if all the returns be received, to canvass the votes given for delegate to Congress.

That is the exception. The Secretary of the Territory has a part in the canvassing the votes for the delegate to Congress, but for no other officers, and no other certificate can come from him or from the Governor, as *prima facie* evidence.

The third reason the leading Democrats give for leaving this Convention, was because the Republicans insisted that a member of the Convention who had been requested *in writing, by a majority of all the members elect, and two-thirds of those present*, to call the Convention to order, was the proper person, instead of an *officious and intermeddling federal office holder*—the Secretary of the Territory—and that the general rule was that when no person was directly authorized by law to call deliberative bodies to order, that some member of the body perform that duty.

Now, sir, before I proceed to the legal part of the question, I ask the simple question whether it is not right that a body of this character, assembled to frame a State Constitution, should be entirely free from all executive interference, or the interference of any federal office holder? Is it not our right to assemble here to deliberate without any such interference? Does it not, upon its face, present an appearance of right? Is it not right in fact? Certainly it is.

Now, as it has been disputed by a gentleman high in authority in the other party, that no written request was made to Mr. NORTH to call this Convention to order. I ask the Clerk to read from the journal the written request as entered thereon by the order of the Convention.

The Clerk then read the request as follows:

We, the undersigned, members elect to the Constitutional Convention of Minnesota, hereby request J. W. NORTH to call said Convention to order at as early an hour on Monday, the 13th of July inst., as the majority of the Convention shall be found in attendence.

(Signed)

St. A. D. Balcombe, Thos. Foster, H. W. Holley, Thos. Wilson, L. K. Stannard, W. H. C. Folsom, N. P. Colburn, A. B. Vaughn, Thos. J. Galbraith, W. Hayden, W. F. Russell, T. D. Smith, N. B. Robbins, B. H. Baldwin, E. N. Bates, J. H. Murphy, S. W. Putnam, P. A. Cederstam, Chas. F. Lowe, Thos. Winell, R. S. Bartholomew, F. Ayer, Geo. Watson, Frank Mantor, Chas. H. Coe, J. A. Anderson, Chas. G. Gerrish, H. A. Billings, S. Harding, A. Coombs. H. Eschlie, J. Cleghorn, Thos. Bolles, J. W. North, W. J. Duley, J. A. Kemp, J. A. McCann, C. W. Thompson, Chas. McClure, Aaron G. Hudson, Lewis, McKune, Amos Coggswell, O. F. Perkins, D. A. Secombe, L. C. Walker, B. E. Messer, Cyrus Aldrich, David Morgan, R. Lyle, D. L. King, Joseph Peckham, D. M. Hall, E. Page Davis, A. H. Butler, Chas. Hanson, D. D. Dickerson.

Dated July 11th, 1857.

Mr. B continued:—Now I will refer to authorities to show that our proceedings were actually in accordance with parliamentary usage. In the first place I read from Cushing's Manuel, page 10, sec. 3:

"The most usual and convenient mode of organizing a deliberative assembly is the following:—The members being assembled together in the place, and at the time appointed for their meeting, one of them addressing himself to the others, requests them to come to order; the members thereupon seating themselves and giving their attention to him, he suggests the propriety and necessity of their being organized before proceeding to business, and requests the members to nominate some person to act as Chairman of the meeting," &c.

Now I propose to show that that course has been almost, if not quite, universally followed, and that this rule universally prevails that wherever a person has been pointed out by law as a person to call a deliberative body to order, he in the first instance has the roll of members called, to ascertain who are members and who are present; and that where the law has not pointed out any such person, any member of the deliberative body, whatever its character may be, has a right to call the body to order. Where such person is pointed out by law, he acts as temporary Chairman. There may be exceptions, in practice, to the rule I have laid down, as there are exceptions to all other rules, but as in other cases, exceptions prove the rule. In the Massachusetts Constitutional Convention held in 1853, the Hon. ROBERT RANTOUL, of Beverly, called the Convention to order. He was a member of the body, and it was one of those instances in which the law creating the Convention did not prescribe who should call the Convention to order. In Ohio the same course was pursued in its Constitutional Convention of 1850. Mr. SAWYER, member from Allen County, moved that Mr. LARWILL be called to the Chair.—Carried. In Illinois no provision was made for calling the Convention to order, and it was called to order by FRANCIS C. SHERMAN, of Cook County, upon whose motion Mr. ZADOK CASEY was appointed President of the Convention *pro tem.* In Iowa there was no provision of law in that respect, and the Convention was called to order by JAMES GRANT, member elect from Scott County, upon whose motion Mr. WM. THOMPSON was appointed Secretary, *pro tem.* In California, no provision was made by law, and the Convention was called to order by Mr. HALLECK, member from Monterey, and Mr. DIMMICK was appointed Chairman, *pro tem.* And here I wish to remark upon the difference in the modesty between the Secretary of the Territory of California and our Secretary. Mr. HALLECK was Secretary of California, and was also elected a member of the Constitutional Convention. His seat was not in controversy; but, sir, instead of arrogating to himself the authority of calling the Convention to order, by virtue of his *official position*, he did so as a simple member of the body, and in his capacity as such. Note still further his modesty, in contrast. On calling the roll on the first day, it was ascertained that there was not a quorum present, and an adjournment took place until the next Monday. On Monday, the Chairman announced that he had received a communication from the Governor, through the Secretary of State. That communication showed who were members of the Convention, according to the ideas of the Governor. The returns were to be made to the Secretary and Governor, from whom the certificates were to come; and had it not been for the difference between that Secretary and our Secretary, he could have presented himself at the desk and called the roll of members, because he was the only man who had that roll, and the only man who was officially entitled to it, and who could give certificates of election.

I have examined the journals of the Wisconsin Conventions to frame a Constitution, and I find that in both of them a member of the body called them to order. There are other instances which I might cite, but I have referred to sufficient to establish the general rule. I have examined the journals of every Convention I could get hold of, and I have not been able to find a single exception to the rule I have laid down. Not only the rule, but the justness of that mode of proceedure, has always been acknowledged. And here I take occasion to say, that one of the members sitting in the other Hall, (Mr. HOLCOMBE,) was a member of the Wisconsin Convention, and was personally cognizant of the proper mode of proceedure, and the rule.

I now come to precedents nearer home. As a general rule the Secretary of the last Senate, the Clerk of the last House, call the succeeding bodies to order in most of the States. That is generally regulated by law, and it is so in this Territory. Our statute provides that the Secretary of the last Council, and the Clerk of the last House, are to call

the succeeding Council and House to order, But an instance occurred in 1853, when the Clerk of the House was not present at the meeting of the following House, and I find in the journal of that body, that "At twelve "o'clock, M., on Monday the fifth of Janu- "ary, designated by law for the Legislature to "assemble, the Chief Clerk of the House not "being in attendance, on motion of Mr. A. E. "AMES, Mr. JOSEPH R. BROWN, was appoin- "ted to occupy the Clerk's desk." Here was an instance in which Mr. A. E. AMES, a gentleman who holds a seat in the bogus Convention in the other end of this Capitol, followed and acknowledged the binding force of the universal rule which I have declared that where no person is appointed by law. to call a deliberative body to order, or if there be such a person and he is absent, the proper and usual mode is for some member of the body to call it to order. JOSEPH R. BROWN, also a member of that other body, was appointed Clerk under that rule, and Messrs. MURRAY, ROLETTE, and others in that Convention were members of that House, and knew of that precedent, and acknowledged it by their action.

But I have referred to a sufficient number of precedents to show the universality of the rule, and I will therefore not detain the Convention longer with this point, though I could cite a hundred more precedents were it necessary to do so. The propriety of such a rule is evident to every unbiased mind.

And now, not so much for the purpose of enlightening the members, as to the views of the editor of a certain paper in this city, as for the purpose of spreading the views of that editor upon the journal of debates of this Convention, I will read an editorial article written by an editor of a *neutral* paper, supposed to be entirely unbiased on this question. The St. Paul *Advertiser*, of July twenty-fifth, a commercial paper, speaking the sentiments of a class who pay little attention to the mere political aspects of this matter, but who are engaged more particularly with the pecuniary and commercial interests of the country, and are disposed to discountenance any movement which is calculated to retard our progress. It is as follows:

"The doctrine now for the first time stated, that the Secretary of the Territory is the only person competent to call a Constitutional Convention to order, is too ridiculous to merit one moment's consideration. This, we venture to say, is the most extraordinary proposition that even the exigencies of party logic ever gave rise to. That the Secretary may exercise this privilege, is itself the very doubtful proposition, which nothing but an array of precedents, which do not exist, could warrant in this case, and nothing less than universality of precedent, when there is, perhaps, a single instance on record, could establish it as a rule. It is, on the other hand, the indubitable and self-evident proposition that any member of an inchoate, deliberative body may call it to order and put the question preliminary to its organization. It does not depend on the occasional or exceptional precedent. But it is the UNIVERSAL rule, and is inherent in the nature, and results from the necessity of the case. If any one, therefore, doubts that Mr. CHASE, acting by virtue of his Secretaryship, was competent to call the Convention to order, no one can doubt that Mr. NORTH, a member of the Convention was fully competent to perform that office. We take it for granted that Mr. CHASE was a competent person to do this, but that Mr. NORTH was equally so. Both these gentlemen acting concurrently, put questions in the usual parliamentary form, to an assemblage of persons within the bar of the Convention, one was for an adjournment, the other for an organization. Both motions were declared carried. We have here, in one assembly two separate and distinct proceedings at the same time. If we could now ascertain that a majority of the assembly participated in the proceedings initiated by Mr. CHASE, and acted upon the motion put by him, we are not sure that any of the consequences would follow which the *Pioneer* deduces from its assertion of that fact. But it is impossible to ascertain any such thing, and it is, to say the least, highly improbable that such was the case. First, because a majority had consented to recognize Mr. NORTH beforehand, and had requested him in writing to call the meeting to order. Second. Because the majority of Republicans had every motive for ignoring the proceedings of Mr. CHASE. Third. They were acting at the same time upon a motion of their own, agreed upon beforehand, and consented to beforehand unanimously.

"But it must have struck every one that all this balderdash about the competency of this or that officer has nothing to do with the question. It is not of the least consequence who puts the questions preliminary to organization, or how they are put. It is only necessary that by some means or other the will of the majority be ascertained. The mode of procedure does not enter into the essence of the act. The will of the majority, however expressed, is the act of all the parties participating in the proceeding. The single circumstance that but forty-five Democrats withdrew from the Hall in accordance with the resolution to adjourn

while fifty-six Republicans remained, and organized in accordance with the motion so to do, but concurrently with the other, would seem to express in the clearest and most emphatic manner possible the will of the majority in this case. It is doubtful if a majority of those present recognized the authority of Mr. CHASE. It is beyond dispute that a majority recoguized the authority of Mr. NORTH. There is no evidence at all of the one, and there is the most absolute evidence of the other.

"On the next day, the Democrats, now increased to forty-six, met pursuant to adjournment, AS THE CONSTITUTIONAL CONVENTION—as an adjourned meeting of the Convention, and came in a body to the Hall occupied by a majority of the members who had already organized as the Convention, and demanded the surrender of the Hall to them as the Convention. Being refused, they adjourned again to the Council Chamber, and though a minority, and therefore not a quorum, organized as the Convention.

"We are the advocates of no party. We have too high a respect for the prominent members of the recusant delegation, to believe that they would lend themselves without good reasons, to the ambitious schemes of demagogues for a party domination, obtained by wicked and unjust means; but we confess we are at a loss to understand how, even admitting for the moment, that the adjournment upon which their action was predicated, was the sense of the meeting at the Capitol on Monday noon. We are at a loss to understand how i could be considered in any sense as the adjournment of the Convention. There is no evidence that of all those who participated in the proceeding, any one was a member of the Convention. It is known that several persous were present who were not members. There had been no organization, no credentials had been presented. The Convention did not exist as a deliberative or parliamentary body when that meeting adjourned, if it were an adjournment. It can only be considered in its most favorable light, as the act of an informal and tumultuous assemblage of men, speaking without organization, and therefore without authority. And there is not the least doubt that if every member in the Hall had voted on the motion to adjourn, prior to organization, that a majority of all the members of the Convention, this being a quorum, would still, as such quorum, be competent to remain and orgauize."

Again, it is objected that a majority of all the members elect met and organized in the usual and parliamentary manner, and proceeded to the business for which they were elected, without taking notice of the factious and discourteous conduct of the minority or its quibbles.

A great deal has been said about a motion made by an individual—no one knew whether by a member of the Convention or not—because the journal of the proceedings of that day's Convention, which they will present to you, does not show who were members of the Convention that day, and does not even show that any members were present, because a list of the members was never called by that individual who professed to be Chairman at that time. Had he followed the universal rule, he would have called the list that day. But a motion was made to adjourn to twelve o'clock next day. It is asserted that that motion took precedence of all others. Now granting for the sake of the argument —nothing more—that the *official* who pretended to be the presiding officer at that time, was the presiding officer in fact. I deny that a motion to adjourn to a fixed time was a privileged motion, and I charge that those who pretend it is, know better.

On page seventy-nine of CUSHING's Manuel I find the following:

"A motion to adjourn takes the place of all other questions whatsoever; for otherwise the assembly might be kept sitting against its will, and for an indefinite time; but in order to entitle this motion to precedence it must be simply to adjourn without the addition of any particular day or time, and as the object of the motion, when made in the midst of some other proceeding, and with a view to supercede a question already proposed, as simply to breaking up the sitting, it does not admit of any amendments by the addition of a particular day, or in any other manner, though if a motion to adjourn is made, when no other business is before the assembly, it may be amended like other questions."

Now, sir, what was the motion made by a gentleman, at the time the Secretary presented himself as the presiding officer? It was a motion to adjourn to a certain day and to a certain time. Hence that motion could not be a privileged motion, and was not in order, as the motion made by Mr. NORTH that Mr. GALBRAITH be elected President *pro tempore* was previously made. But supposing it was, I contend that it was impossible for them to adjourn at that time. There was no Convention to adjourn—no assembly to adjourn. They were simply a mass of individuals without organization. No one knows, or can know, who voted for or against the motion—whether they were members having a right to a seat in the Convention, or merely citizens of St. Paul. I refer again to CUSHING's Manuel, page 166, and find—

"The reason why a motion to adjourn, moved for the purpose of superceding or suppressing a pending question is not susceptible of amendment, is that if amended, it would at once become inadmissable in point of order, on the ground of its being introductory to a second question, having no privilege, to take the place of a question already pending, and entitled to be first disposed of."

I submit the testimony of an unbiased man as to the condition we were actually in at the time the motion was made. I extract from the editorial of the *Advertiser*, July twenty-fifth:

"Let us analyse thereon without disputing him. The point at issue is this: Was the motion for adjournment on Monday the 13th inst., put by Mr. CHASE, in the Hall of the Convention, to the persons there assembled prior to organization, and declared carried by Mr. CHASE—was this adjournment of the Convention binding as the act of the Convention on all its members?"

"If this were indeed so, then it is beyond dispute that to the Democratic delegates in session at the Council Chamber, rightfully belongs the duty of framing a Constitution for Minnesota."

"The act of the Convention? By what process had the persons who met within the bar of the House become the Convention? What, and who constituted them the Convention? We had supposed it to be a fundamental law of the inception of parliaments that assemblies of men convened to transact the business of parliamentary bodies, must first become a parliamentary body before they can perform the acts of parliamentary bodies. An adjournment binding upon the members of a parliamentary body, as such, necessarily implies the existence of a parliamentary body. An adjournment prior to organization is a thing impossible. There can be no adjournment, because there is nothing to adjourn. Will Theron, will Mr. FLANDRAU, will the *Pioneer* explain to the people of Minuesota, how a number of persons congregated informally, and without organization, within the bar of the Convention, could adjourn as the Convention, before they existed as a Convention? Will any one tell us how such an act could be the act of a parliamentary body, obligatory on the members thereof as such, before the first step had been taken to constitute them a parliamentary body?

"We repeat that a motion for adjournment at that stage of proceedings was simply absurd. It could only be regarded in its most favorable light as an informal, and exceedingly impertinent and foolish suggestion, and the unanimous concurrence of all present in it, could be nothing more than the voluntary dispersion of a crowd. We are sure that we are right in saying, that if the motion to adjourn had met the unanimous concurrence of every one, the proceedings could have had no binding force, except as tacit agreement between individuals, and a quorum of the inchoate convention might have reassembled at any time thereafter, and proceeded to organize without reference to it. The first and only steps which the unorganized assemblage of individuals claiming to be members elected to the Convention, was capable of taking, was the one step necessary to organization. No other could come within its powers till after organization. Before that, it might disperse, or the individuals who composed the meeting, might, in their individual capacity, do what they pleased, but it could not adjourn as a parliamentary body.

"Throwing aside all technical tests, and reducing it to a question of legal right—what was the sense of a majority of those present at the meeting on Monday noon? What was the sense of a majority of those present who were legally and rightfully entitled to their seats? There were fifty-five Republicans at least with credentials in their pockets—if six were bogus there would remain forty-nine in favor of organization. The highest number claimed by the Democrats, including several who had not credentials—was forty-five."

Now, sir, when this motion to adjourn was made, a member of the Convention was occupying the desk by the authority of a majority of all the members elected, and by a majority of two-thirds of the members present, and that member made the motion that Mr. GALBRAITH be appointed temporary Chairman. While he was putting that motion, a gentleman in the assembly moved to adjourn until a certain time. As I have shown the motion to adjourn to a certain time was not a privileged motion, but was out of order; and not only was it out of order, but it is considered by the rules, to have been a breach of order. A motion to adjourn would even have been out of order then, because the yeas and nays were being put; and I refer to Jefferson's Manuel to prove that position. The motion to adjourn to a certain time was made, while the motion that Mr. GALBRAITH be temporary Chairman was being put, and even if it had been a simple motion to adjourn without specifying the time, it would have been out of order, as I have shown. Jefferson's Manuel says:

"A motion to adjourn simply takes place of all others; for otherwise a House might be kept sitting against its will, and indefinitely. Yet the motion cannot be received after another question is actually put, and while the House is engaged in voting."

Now was not the House actually engaged in voting when the motion to adjourn to a certain time and place was made? Then

was it not out of order? Certainly it was —as decided by the best authority that can be produced. Again, Jefferson's Manuel page 161:

"It might be asked whether a motion for adjournment or for the orders of the day cannot be made by one member while another is speaking. *It cannot.*"

Was there not at the time a gentleman occupying the floor? Was not Mr. NORTH putting the question? Under three rules, then, a motion to adjourn to a certain time and place at that time, was out of order.

Again, it has been the universal rule to ascertain who the members of a deliberative body are, before a motion of this character is made. I will not here refer to precedents in detail, but will refer to the journals and debates of every Constitutional Convention, and of every legislative body. They will show that the first business is to make out a list of members. That there may have been exceptions to that course, I will not deny; but I have no such exception now in my mind.

It has generally been conceded that there is no deliberative body, to act upon any motion, except merely a motion for the appointment of a temporary Chairman, and temporary Secretary, until after the roll is called, and until it was ascertained who were actually members of the body. I refer to the journals of Wisconsin, Massachusetts, Ohio, Indiana, New York, Iowa and all others—cases where they were called to order both by the Secretary of State, and by members of the body itself. I here refer to the editorial of the St. Paul *Advertiser* of July 25. I have shown you, according to the best of my ability, at the present time, that those who present themselves to any deliberate body with certificates of election from the proper authority, are first entitled to seats—that such certificates are held to be *prima facie* evidence of their rights to seats,—to which rule there have been but few exceptions. I have shown you that the prominent leaders of the Democratic party of this Territory are cognizant of that law governing deliberative bodies, and have acted upon it, in Congress, in other Conventions, and in our Territorial Legislature. I have shown you that some of them have been personally engaged in enforcing that general and universal rule. Gen. SHIELDS, a prominent member of that party, was himself admitted, under objection made, to a seat in the United States Senate. He presented himself with *prima facie* evidence of his right to such seat. Mr. DOUGLAS moved that he be sworn in immediately; and he would not allow the Senate to proceed to business unless he was qualified, contending that Illinois should be represented in that body, and that immediately; and that it was right and just that he should be admitted upon *prima facie* evidence, and he was admitted, though afterwards it was proven that he was ineligible. I have shown you that very many of those who are assembled in the other end of the Capitol, are men of large experience in legislative bodies, and have themselves assisted in establishing the universal rules I have brought to your notice. I have shown you who the persons are in this Territory from whom that *prima facie* evidence should come, and from whom only it can come.

What other conclusion then can any individual come to, from the course pursued by the Democratic leaders, than *that it is their determination* to prevent the immediate admission of Minnesota into the Union as a sovereign and independent State? Upon what other ground can you explain the action of those men in acting directly contrary to their own knowledge, and contrary to what is right, just, usual, parliamentary and courteous? Can any one explain the matter upon any other grounds?

It has been suggested that our Representative in Congress (Mr. Rice) procured the passage of the Enabling Act, and that this was an indication that the Democratic party was in favor of our immediate admission into the Union. True, he did procure the passage of that Act, and in doing so he acted in obedience to the voice of the people of this Territory, and undoubtedly he and the Democratic leaders at the time thought it would be an easy matter for them to escort the new State into the Union under Democratic auspices. But an election of Delegates to this Convention has since taken place, and it resulted in giving the Republicans a majority of Delegates in the Convention, and the signs of the times pretty clearly indicate that if the State was to go into the Union now, the Republicans would have the pleasure of escorting her in.

That has become evident to the leaders of that party, and to others. Then what was the next course for them to pursue? It was to prevent the State of Minnesota, if possible, from going into the Union. It was first, to break up, if possible, the deliberations of the Constitutional Convention entirely; to withdraw from the Convention, thinking there would not be a quorum to organize, and thus defeat the formation of a Constitution. They violated all parliamentary law, all usages, and all courtesy, yet failed in their attempts. What next? They secede from this Convention, and enter upon the formation of another Constitution, in order to confuse the minds of the people, for the purpose, apparently, of carrying the impression to the people that they are in favor of admission into the Union as a State, because they dare not openly violate the universal feeling and desire of the people. But they want to do it in an indirect manner, and the question now remains to be solved whether the people of this Territory will permit the leaders of that party, for selfish purposes, to defeat the adoption of the Constitution which we may frame here. The reasons for the course they pursue are obvious. There are certain individuals in that party who are very ambitious, and who proclaim it abroad that they must be the first United States Senators from the State of Minnesota. But now they see that prospect rapidly growing dim under the advance of the Republican party, and they are in hopes that by delaying the formation and adoption of a Constitution a few years longer, that their officials, their federal office holders, and their money, may bring about a different state of things from what exists in the Territory now, and that their chance for a seat in the United States Senate from the State of Minnesota, will be much better than it is now.

But some person may ask, "Is it possible "that the leaders of that party can change so "suddenly their course of action? They "have heretofore acted in favor of our admis- "sion into the Union immediately, and they "have expressed themselves in favor of it." Now, sir, it is nothing new to me to see the leaders of that party change their course of action, or their views upon any subject whatever. I myself have some personal knowledge in reference to this matter. I have seen the "*dictator*" of that party change his mind three or four times upon one question, to accomplish certain selfish ends and objects. And I will here state that that same individual came to me some few days before the meeting of this Convention, and acknowledged that they were in the minority; that they did not expect the control of the Convention; that we had two majority, even if they had what they claimed—four seats from St. Anthony, and the delegates from Pembina; but the delegates from Pembina were not entitled to seats, according to his own judgment, though if the party contended for them he would have to. And that very same "*dictator*" has since acknowledged that fourteen of their members were not present, and that there were fifty-six of our members present at the first meeting on Monday, the thirteenth inst., —that being four majority of all the members elect. He knew that his party was to be in the minority, and knowing it, he came to me individually and requested an interview with me after my election as President of this body, to permit him to suggest certain positions he wished to occupy upon the committees—hoping to have a prominent place upon the committees, in case he did not succeed in making his party follow him in his attempt to break up the Constitutional Convention altogether.

Again, it is nothing new for that individual who is now the acknowledged leader of that party, to change his position upon any subject, or his course of action, or his policy. I recollect very well having been a member of the Council a year ago last winter, when the subject of giving the old North-Western Railroad Company an opportunity of getting a foothold in this Territory came up for consideration. Many of us were entirely opposed to it, and that very "dictator" of that party had been for a long time professedly opposed to it. But, sir, after much bitter strife and contention over the matter upon both sides, he deserted us and signed the bill which they asked him to sign.

Again, I can very well remember when that individual was professedly in favor of a north and south line division of this Territory. But a short time after he came out in favor of an east and west. Knowing that to be the

universal view of Southern Minnesota, he hoped to court some favor with her, and gain her support for him to the United States Senate at some future time. He then stated that the only reason why he had heretofore been in favor of a north and south line was that he thought it was going to be a better line for the Democratic party; but that he had come to the conclusion to sacrifice party interests for the interests of the Territory. Then, sir, but a few months after he had proclaimed himself in favor of an east and west line, we hear that he has promised to vote for a north and south line in the event of his election to this Constitutional Convention. He deserted Southern Minnesota then, and that very movement of his, he having been a prominent individual in the Territory, and having taken a prominent position in favor of an east and west line, made it impossible to make any successful struggle against a north and south line division. *Southern Minnesota may give him the credit of having defeated her wishes in that matter.*

Again sir, I happened to have been a member of the Council last winter when the question of removing the seat of government was mooted. I was in favor of its removal, and I do not deny that I am still in favor of it, upon the general principle that the seat of government of any State or Territory should not be at the commercial metropolis of that State or Territory. And I have another reason which I will express to my St. Paul friends, and that is, that they have always been controlled in their political action here by a class of men who have always some traps set for the country members—by men who are always up to this border ruffian kind of trickery—this kind of skullduggery, as it is called in Minnesota. And now St. Paul allows herself to be controlled by these same border ruffian politicians. Members who come from the country are met at the threshold with some trap and snare.

But I digress from the point. I said I was in favor of the removal, but I wish to state that I was not, as represented by that dictator, the first one to moot that question. I did not favor that movement until after it had been discussed in private circles for some length of time, and until I had ascertained that I had to take one side or the other, and I finally took the side that my own inclinations dictated. The "dictator" of the other party, to my own personal knowledge, was in favor of the removal from the very beginning and inception of the agitation upon that subject. To my personal knowledge he was the adviser of the Saint Peter Company from the beginning of that struggle to the end of it. To my personal knowledge, he was the one who drafted that bill as it passed, with the exception of some minor amendments which were made to it. He says to the Saint Peter Company: "Gentlemen, let me apparently stand in the back ground; I am Governor, and I do not want it to appear that I am very anxious in the matter; but if you want my assistance at any time when there is a hard job before you, I am ready—I do not want to say much about this matter, but I am willing to meet you in your deliberations on this matter, though I do not wish to have it go forth that as Governor I am working for the removal of this Capitol." I personally know that this leader advised in the whole matter, and that his advice was generally taken. He was looked up to as the best manager in the matter. I have it sir, in black and white in my own house, that he was in favor of it. I have even seen him since I have been in this city within the last three weeks distributing REVERDY JOHNSON'S opinion upon the subject of the removal. He presented me with a copy. I personally know that he obtained a copy of the act as it passed, with all the objections of the presiding officers, with the very object of going to Washington and obtaining the opinion of learned and legal gentleman upon the legality of that bill. But, sir, after a few months we find a denial by that gentleman, that he was in favor of a removal at all. He says he thought it was a premature movement, and that he thought it would fall still-born; that he knew it would not succeed; that he advised accordingly; and he attributes the whole movement to the Black Republicans. He deserted his friends in that movement, changed his course, and for what? To accomplish a selfish end at the time—to accomplish his election as a member of this Convention, thinking that that very election would place him as "dictator" in the party, which it has. In one sense of the word per-

haps it was a shrewd movement. He denied that he was in favor of the removal, and said he signed the bill reluctantly; that he was driven to it because somebody in St. Paul had threatened violence if he did, and that he must show he was not a coward. This desertion of the friends of the removal will make it impossible to accomplish that end for some time to come. Now I submit, after men who are the acknowledged leaders of that party, have changed their views and course of action upon so many questions of the day, whether it is anything strange, after having been once in favor of the immediate admission of Minnesota into the Union, they should turn about and try to prevent it? Is it not in exact accordance with the action of the leaders of that party in the past? They will shift as many times as they think necessary to accomplish some personal and party end.

Now, sir, I say the people should know that such is their intention at this time; that they do intend to prevent, if possible, this Territory from coming in as a State at this time. And it is for this purpose and no other that I have attempted to make a few remarks. I presented the resolution to which I have spoken, for the purpose of waking up the people upon this subject, and having them express their views in their various counties and districts in condemnation of the course the democratic leaders, and democratic party are taking to accomplish selfish and party objects. Ought the great interest of this Territory to be sacrificed to the accomplishment of these selfish objects? Ought our railroad, our commercial and our financial interests be sacrificed to promote the personal ambition of some party leaders?

I hope the resolution will be passed and that each one of us will hereafter let our constituents know fully what is transpiring here. We stand in a position where we are cognizant of all that transpires, and it is our duty to let the people know what plottings are taking place against their interests. We are here where we can find out all the movements of that party before and since our organization; and we are perhaps better able to judge what the object of those leaders are, than our friends at home are, who are attending to their own private affairs. The people at home are under the impression that every body is in favor of coming into the Union as a State as soon as possible, and that there are no politicians seeking to prevent it. I say their minds should be disabused, and it is for that purpose, and that purpose alone, that I make these remarks to-day.

I move that this resolution lie upon the table for the present. I wish to hear others upon it, and I make the motion in order to give a favorable opportunity for discussing it.

The motion was agreed to, and the resolution was laid on the table.

And then, on motion of Mr. CLEGHORN, (at one o'clock) the Convention adjourned until two o'clock.

AFTERNOON SESSION.

The Convention met at two o'clock.

REPORT OF COMMITTEE.

Mr. MORGAN, from the committee on the Organization and Government of Cities and Villages, made the following report which was read a first and second time, and laid upon the table to be printed, viz:

The committee on the Organization of Cities and Villages, beg leave to report the following section to be inserted in the Constitution:

SECTION 1. The Legislature shall grant no Act of Incorporation establishing the form of a city government for any place or portion of territory, which at the time does not contain a resident population of not less than three thousand. Nor shall the Legislature grant any special act for the incorporation of any town or village which does not at the time contain a resident population of not less than five hundred.

All of which is respectfully submitted.

PREAMBLE AND BILL OF RIGHTS.

On motion of Mr. SECOMBE, the Convention resolved itself into a committee of the Whole, on the report of the committee on the Preamble and Bill of Rights. (Mr. MORGAN in the Chair), and resumed the consideration of said bill at the point where the committee left it at its last sitting. The pending question being upon the amendment to the thirteenth section, offered by Mr. WILSON to add thereto the words—

"The jury or commissioners assessing the damages shall not take into consideration any advantage which may arise to the owner on account of the improvement for which it is taken."

Mr. HARDING: I move to amend the amendment by adding thereto the following:

"And no property shall be taken possession of for public use until the damages assessed shall have been tendered."

The amendment to the amendment was rejected.

The amendment was not agreed to.

Mr. CLEGHORN. I move that the committee now rise and report the report to the Convention.

Mr. SECOMBE. I will move an amendment, which I presume the gentleman will accept, and that is, with a recommendation that the various amendments made by the committee of the Whole be adopted.

Mr. CLEGHORN. I accept the amendment.

The motion was agreed to.

So the committee rose, and the President having resumed the Chair, the Chairman of the committee reported that the committee had had under consideration the report of the standing committee to whom was referred that portion of the Constitution relating to the Preamble and Bill of Rights, that they had made sundry amendments thereto, and had directed him to report the same to the Convention, with a recommendation that the amendments be agreed to.

Mr. SECOMBE. Under the rule I believe the report lies over one day before it can be acted upon.

The PRESIDENT. After a bill is reported back to the Convention from the committee of the Whole, the first question is upon the adoption of the amendments recommended by such committee, unless some other disposition of the report be made.

Mr. MORGAN. The Chairman of the committee (Mr. COGGSWELL) who reported this Preamble and Bill of Rights is not now here to give his reasons in favor of the various sections of this report. A good many other members are also absent to-day, and it seems to me that when we take final action upon this part of the Constitution there should be as many members present as we can get together at any one time. I therefore move that the report do lie upon the table.

The motion was agreed to, and the report was laid upon the table.

EXECUTIVE DEPARTMENT.

On motion of Mr. BATES, the Convention resolved itself into a committee of the Whole. (Mr. NORTH in the chair) upon the report of the committee to whom was referred that part of the Constitution relating to the Executive Department.

The report was read by sections for consideration and amendment.

(*For report, see proceedings of 22d July.*)

SECTION 1. The executive power shall be vested in a Governor, who shall hold his office for two years. A Lieutenant Governor shall be elected at the same time, and for the same term.

Mr. SECOMBE. I move to strike out "two" and insert "three."

The amendment was not agreed to.

SEC. 2. No person except a citizen of the United States, shall be eligible to the office of Governor, nor shall any person be eligible to that office, who has not attained the age of thirty years, and who shall not have been one year next preceding his election, a resident within the State, or a resident at the time of the adoption of this Constitution.

Mr. HOLLEY. I move to amend that section by striking out the words "citizen of the "United States," and insert "citizen of this "State."

The amendment was not agreed to.

Mr. ROBBINS. I move to amend by striking out all after the word "State" in the fifth line.

Mr. MORGAN. The clause proposed to to be stricken out was inserted by the committee with reference to the election of the first Governor, as there might be a question whether there would be any person eligible to the office of Governor, at the first election, without that clause. The preceding part requires the person to have been a resident of the State for one year next preceding his election. There could probably be no person having that qualification at our first election of State officers.

The amendment was not agreed to.

Mr. WILSON. I move to strike out the word "one" and insert "three."

If this Constitution were not expected to remain in force for a number of years I should not wish the change I propose. But in a few years from this I do not think it would be well or proper that a man coming into our State and being a resident for only one year, should be eligible to the office of Governor. We could not become sufficiently acquainted with such a man in that length of time. I think, too, that the one year resident qualification is unprecedented. I have not particularly examined the point, but I do not recollect of ever seeing it before. Whether there is a precedent or not, I do not think it is proper.

The amendment was rejected.

Mr. DAVIS. I move to amend by striking out the word "thirty" and inserting "twenty-five.

The amendment was rejected.

Mr. DAVIS. Of course I supposed that every member who had attained the age of thirty would vote against my amendment. (Laughter.)

CLEGHORN. I move to strike out the word "thirty" and insert "twenty-one."

The amendment was not agreed to.

Mr. DICKERSON moved to strike out the word "one" and insert "two."

The amendment was agreed to.

Mr. BALCOMBE. I move to strike out the words "who has not attained the age of thirty years."

Mr. SECOMBE. I rise to a point of order. We have voted down one amendment equivalent to that, and I contend that this amendment is not in order.

Mr. BALCOMBE. I believe that an amendment to strike out certain words is not equivalent to a motion to strike out and insert others in their place.

The CHAIRMAN. The Chair thinks the point of order is not well taken.

Mr. BILLINGS. I call for the reading of the thirty-ninth rule.

The rule was read as follows:

"A motion to strike out and insert shall be deemed indivisible; but a motion to strike out being lost shall neither preclude amendment, nor a motion to strike out and insert."

The CHAIRMAN. The Chair thinks that the amendment is in order.

Mr. BALCOMBE. I am pretty positive that I am correct in the position that after a motion has been made to strike out and insert, I have the right to make the simple motion to strike out without inserting anything.

Mr. SECOMBE. Ordinarily I should not differ with the gentleman from Winona upon that point. But I put my objection now upon the principle that where the committee have refused to adopt a certain amendment, the same amendment or an equivalent one cannot be offered, the committee having expressed their wish that such an amendment shall not be adopted. Now an amendment was offered to strike out "thirty," and insert "twenty-one," which would make any person of the age of twenty-one years eligible to the office of Governor, if he had the other qualifications. The amendment now offered by the gentleman from Winona is to the same effect.

Mr. BALCOMBE. I believe the Chair decided my amendment in order. I am opposed to putting any restraint upon the action of the people in the election of their servants, but I am in favor of putting into the Constitution all possible restrictions upon the actions and movements of the servants themselves, upon the Legislature, the Governor, the Secretary, and all other officers. I am as ready and anxious to restrict the action of those officers as perhaps any gentleman upon this floor, but I would not restrict the people themselves in the election of their servants. They should have a free choice. If they desire to elect a man twenty-one, twenty-five, or fifty years of age, let them do so.

Mr. ALDRICH. I agree with the gentleman who has last spoken, and I do not see any good reason why a man twenty-one twenty-two, or twenty-three years of age, should not have the privilege of being elected Governor if the people desire it; for I take it that the people would not elect such a man unless he was qualified for the office. I find by reference to the Constitution of Wisconsin there is no limit as to age in reference to the eligibility of Governor. I believe the people of Minnesota are as intelligent as any other people, and will know when a man is qualified to discharge the duties of the office of Governor. I am in favor of "Young America" myself, and of giving my friend DAVIS here a chance, believing that he is O K, and all "right on the goose."

Mr. DAVIS. I thank the gentleman for his kind offer for support, but I will inform him that I do not expect to be a candidate this fall, but shall wait until the next election, and I suggest that if this gentleman himself should happen to be a candidate for the office, I warrant him the support of all "Young America;" and I would also suggest to gentlemen who voted against the amendment, adopting twenty-one years, that they had better look at home and see if they have not some "Young Americans" in their region,

and if they have, I hope to mercy, they will all be found arrayed against those who adhere to the thirty year qualification. I am in favor of the amendment, and I think there are many men who have attained the age of twenty-one, who are as well qualified, as those who have attained the age of thirty.

Mr. WILSON. I think that the idea that a man is as well qualified for office at the age of twenty-one as he is at thirty, is not saying much for progression. We know from our general knowledge of things, that few men at twenty-one know enough about government, or know enough about human nature, to resist those snares and temptations which are thrown around Governors. I go with all my heart for thirty years, and I do not believe that one out of a thousand is qualified for that office before he arrives at that age.

Mr. DAVIS. I would inform the gentleman that I said *many* men, not all men. And by the way, I take it that the gentleman is above the age of thirty. (Laughter.)

Mr. BATES. I am as much in favor of the liberty of the people as any man, but I think that this restriction is a wise one. The feeling of Young America among us is quite prominent, and under the excitement of that feeling, an incompetent man might be presented as an independent candidate, and might be elected, when there would be no chance for him if this restriction is imposed. If we are to throw aside this limit, why, I say throw aside all limits. Why make two years residence a qualification, and why require a man to be a certain time within the Territory? If one restriction is to be taken off, I go for taking off all restrictions.

Mr. BALCOMBE. I am in favor of permitting the people, if they see fit to do so in their sovereign capacity, to elect any legal voter. I am perfectly willing that they should act their pleasure in that matter. I think that the qualification of two years residence should also be stricken out. If a man has become a legal voter he ought to be eligible to any office in the State.

I disclaim any connection with this particular anxiety about Young America, and I hope this question will not be decided upon that point. I hope it will be decided upon the principle of giving the people their own desire in this matter, and that they will be permitted to act freely without restriction or restraint.

Mr. DICKERSON. As a general thing our judgments are much more mature at the age of thirty than they are at twenty-one or twenty-five, and for my part I hope the amendment will not prevail.

Mr. PERKINS. If the idea of the Convention is to encourage and foster Young America, why not go down to the age of ten years or thereabouts. They are more Young Americans from ten to twenty-one than at any other time. The idea that the people should have the greatest liberty, would apply just as well to all other provisions of the Constitution as to this. Take away your Bill of Rights and remove the Constitution itself, for they are restrictions thrown around the actions of the people, and say that the people may settle those matters hereafter. If they wish the writ of *habeas corpus* suspended during time of war, let them suspend it. If they want dueling established here, let them establish it. Do not throw any restrictions in the way of the people. Now that argument ought not to weigh in the mind of the Convention. There may be cases where a man at the age of twenty-one may be better qualified for the office of Governor than some who may get into the Governor's chair at the age of thirty. But if any time is to be set, this Convention ought to resolve that a man is qualified for that office at the age of thirty if he is ever qualified. It seems to me that as a general thing, men do not become sufficiently mature for that office until the age of thirty.

Mr. BALCOMBE. In the Bill of Rights we guarantee to the people certain rights, and we refuse to bestow upon the Legislature, upon the Judges, and the rulers, the right or power of taking from them certain liberties, and certain inalienable rights. But that is a different matter altogether from what is proposed in this section. This is saying to the people that though they should be in favor of a certain person for Governor, they shall not have him, unless he is of a certain age. In the Bill of Rights we guarantee the people certain rights against those whom they clothe with a little authority. That is proper for us to do, and, as I said before, I would go as far as any man to restrain the actions of those rulers and servants.

Mr. PECKHAM. The office of Governor will be the highest in the gift of the people, and it seems to me that it will be no favor to the young man to advance him to the topmost round of the ladder at the outset. If there is a man of ability in the State of the age of twenty-one years, his services will be wanted by the State for many years, but if he is advanced to the highest office at once, it will be readily seen that his services will not be enjoyed by the State for so long a time as they would be if he passed through the subordinate offices first. It is an old remark that the captain of a vessel, who creeps in at the cabin window, is not so well qualified to command a ship, as he who advances through successive grades up to captain. So it is in regard to the office of Governor. He should have experience, and be prepared for the office by taking the preparatory steps.

The question was taken on Mr. BALCOMBE'S amendment, and it was not agreed to.

Mr. HARDING. I move to strike out the word "state" where it last occurs, and insert the word "territory," and strike out the balance of the section.

Mr. COLBURN. I shall be obliged to oppose that amendment upon the same ground that the gentleman from Winona advocated the other. If the people choose to elect a Governor who has not been a resident of the Territory more than a year or six months, they ought to have the right to do so. Had the one year residence qualification been retained, I should not be so much opposed to the amendment. If the amendment should be adopted, no man can be elected Governor at the first election who has not been a resident for two years.

The amendment was rejected.

Mr. WILSON. I move to strike out the whole section and insert—

"No person shall be eligible to the office of Governor, who has not been a resident of the Territory two years, and who is not a citizen of the United States, or who shall not be a resident of this State at the time of the adoption of this Constitution."

The amendment was not agreed to.

SEC. 7. The Lieutenant-Governor shall possess the same qualifications of eligibility for office as the Governor. He shall be President of the Senate, but shall only have a casting vote therein. If during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the President of the Senate shall act as Governor until the vacancy be filled, or the disability shall cease.

Mr. COLBURN. I move that the seventh section be stricken out. My object is not to get rid of the whole of that section. If it is stricken out, I shall move, when the next section comes up for consideration, to insert in it such parts of this section as I wish to retain. I am opposed to the Lieutenant Governor acting as President of the Senate. I believe every deliberative body should have the right of selecting their own presiding officer. It is very important that there should always exist a good feeling and understanding between the presiding officer of a deliberative body and a majority of the members. The Lieutenant Governor is usually nominated with a particular view to his qualifications for the executive department, whereas the President of the Senate should be elected with a view to his qualifications as a presiding officer. Now the qualifications for the two offices are entirely unlike. A man may be a good executive officer, and yet be entirely unqualified to be a good presiding officer of a a deliberative body, while on the other hand a man who has those peculiar qualities and talents which fit him for a presiding officer, may lack the qualities of an executive officer.

And not only that, but this report provides that the Governor and the Lieutenant-Governor shall hold their offices for two years. If this section is adopted it may happen that we shall have a presiding officer of the Senate whose political views may be opposed to those of a majority of the Senate. It may be that when the Lieutenant-Governor and the Senate are elected, they may be of the same political views, but it may happen that during the first year vacancies may occur in the Senate, and when the vacancies are filled, the political complexion of the majority may be changed, and thereby the President of the Senate and a majority of the Senate would be of different political parties. Now I hold that the Senate should have the privilege of electing a presiding officer of their own political views.

I hope the committee will consider the matter fully and carefully before they act upon it. There are other views which might be urged against making the Lieutenant-

Governor President of the Senate, but these are sufficient, I think, to induce the committee to vote to strike out this section.

Mr. STANNARD. I hope the motion will not prevail, not so much that I am opposed to innovation, as that I think that the more stability we can give to deliberative bodies the better, so far as the formation of this Constitution is concerned. I hope every member of this body will lay aside all political considerations.

Mr. BALCOMBE. I hope the motion will prevail. I am not only in favor of the people electing the President of the Senate, but I am also in favor of their electing the Speaker of the House of Representatives. I think the presiding officer should feel himself under obligation to every part and every portion of the State, and should not be the particular and immediate representative of any particular portion of it. Having had some experience in these matters, and having set one session as a member of the Council under a presiding officer, when a particular question came before that body, I came to the conclusion that as a general rule the people would elect better presiding officers than the body itself, because it will be the object of the people to nominate men peculiarly fitted for that office, in order that they may bring strength to the ticket upon which they run. If so elected, he would be more impartial, and less under obligation to particular localities. The election of officers of the Senate and House of Representatives are generally conducted upon the principle of "you vote for me and my candidate, and I "will vote for you and your candidate." It is the buy and sell system—a sort of log-rolling. A man is not generally elected because he is better qualified for that position than any other member of the body, but probably because he may be a little shrewder in seeking for the station, or because he has the advantage of locality. And generally he is elected under the influence of those in the government, wherever it is. This may not, to the uninitiated appear to be so, but it is nevertheless the case, and I want to see the election of these officers put out of the reach of a few individuals, a few political tricksters who may be hanging around.

Mr. COLBURN. I simply desire to say, as the gentleman's main objection is, that the election of officers by the bodies themselves is a system of log-rolling, traffic and trade, that I do not believe there ever was a system of log-rolling, traffic and trade, carried on in the election of a presiding officer to a greater extent than in political caucuses and conventions. It may not be done in precisely the same manner, but it will be done upon the principle of "if you will vote for a man from "my section for this office, I will vote for a "man from your section for that office." And the system will be carried on to a greater extent too, because those caucuses will be larger than the caucuses in these bodies.

Mr. ALDRICH. In every State of the Union where they have a Lieutenant-Governor, he is by law made President of the Senate, except in the State of Rhode Island. So also the Vice-President of the United States is President of the Senate of the United States. The committee inserted this section because its provisions were recommended to them by the practice of all the States. Unless he is made President of the Senate, I should be in favor of striking out from the report everything that relates to him.

Mr. BILLINGS. I move to amend by striking out the words,

"He shall be President of the Senate, but shall have only a casting vote therein."

Mr. COLBURN. I withdraw, then, my amendment, and allow the question to be taken upon the one just offered.

Mr. ALDRICH. The objection is made that the President of the Senate may be of a different political party than the majority of the body. But I take it for granted that the members of that body are to be elected for the same time with the Governor and Lieutenant-Governor. But whether that is the case or not, I do not see that it makes any great difference if he should belong to another party.

Mr. COLBURN. It may be true that they would be elected the same year, and yet a majority of the Senate, elected by districts, might be of a different political complexion from the Lieutenant-Governor, who is elected by a general ticket. It should also be remembered that the President of the Senate has the appointment of committees. If he belongs to a different political party, his friends will demand that he shall favor them upon the

committees, and that a majority of his political friends shall be appointed upon them. It does seem to me improper that a presiding officer should belong to a different political party from that of a majority of the body over which he presides. Suppose that this year a Lieutenant-Governor is elected by the people of the State, and he and the Senate agree in politics. But vacancies may occur during the year in the Senate. At our next annual election we fill those vacancies by the election of men of a different party from those who occupied the seats at the time the Lieutenant-Governor was elected. Then during the second year that officer presided over the Senate, he would not agree with them in political views. Such a case may occur, for the political opinions of the people may change, and that change may be manifested in filling those vacancies.

Mr. BILLINGS. It seems to me that we are providing for three offices to be filled by two officers. In case the Governor dies, the Lieutenant-Governor fills his place, and then he holds two offices—that of Governor, and President of the Senate.

Mr. STANNARD. As far as any inconsistency arising from the language of this section is concerned, I think it is all correct. It provides that if a vacancy shall occurr in the office of Governor, the Lieutenant-Governor shall be Governor of the State, and of course he cannot be President of the Senate. The Senate then appoints one of their own body President. If, during a vacancy in the office of Governor, the Lieutenant-Governor shall be impeached die or resign, then the President of the Senate who shall preside at the time, will be the Chief Executive officer of the State.

Mr. MORGAN. The construction of the words in this section is similar to the construction of similar provisions in the Constitutions of the different States, and I believe it is verbatim the same as the section upon the same subject in the Constitution of the State of New York. The committee do not claim much originality in this report. Its provisions have been copied mainly from the Constitutions of other States. When the Governor dies the Lieutenant-Governor becomes Governor, *de facto*, and then a President of the Senate is chosen by that body itself, and he, in case of the death of the Lieutenant-Governor, becomes Governor.

Mr. ALDRICH. The provision in the New York Constitution is in these words:

"The Lieutenant-Governor shall not possess the same qualifications of eligibility for office as the Governor. He shall be President of the Senate but shall only have a casting vote therein. If during a vacancy of the office of Governor, the Lieutenant Governor shall be impeached, displaced, resign, die, or be absent from the State, the President of the Senate shall act as Governor, until the vacancy be filled or the disability shall cease."

Mr. COLBURN. It seems to me that notwithstanding that is taken from the Constitution of New York, difficulties may arise in its practical working. Perhaps no difficulties have arisen there, but still a difficulty may arise We will suppose the legislative session has adjourned, and immediately after the adjournment, the Governor dies. The Lieutenant Governor of course assumes the position of Governor. Then the Senate have no President. Now suppose while the Lieutenant Governor is acting as Governor, he is impeached or should die, what will you do? The provision says the President of the Senate shall be the Governor; but the Senate have no President as they have not been in session since the death of the Governor.

Perhaps no such event as that has transpired in New York but there is a liability of it. But I did not propose to occupy further time in discussion. The gentleman says that Rhode Island is the only State in which the Lieutenant Governor does not act as President of the Senate. I can inform the gentleman that Massachusetts always elects a President of the Senate, and she has a Lieutenant Governor also.

Mr. MORGAN. I think I can explain the mode in which the difficulty suggested by the gentleman is obviated. Before the adjournment of the Senate of the New York Legislature, it is always customary for the Lieutenant Governor, who is the presiding officer of that body, to withdraw for an hour or so before the adjournment, and a temporary President is always chosen. That too, I believe, is the practice in the Senate of the United States.

Mr. ALDRICH. I would remark that if a majority of the Senate are politically opposed to the Lieutenant Governor, they can

at any time take the power of the appointment of committees out of his hands.

The question was then taken upon the amendment and it was not agreed to.

SEC. 8. The Lieutenant-Governor shall, while acting as such, receive a compensation which shall be fixed by law, and which shall not be increased or diminished during his continuance in office.

Mr. STANNARD. I move to amend that section by striking out the words "continu-"ance in" and insert in lieu thereof the words "term of."

The amendment was adopted.

SEC. 9. Every bill which shall have passed the Senate and the House of Representatives, shall, before it becomes a law, be presented to the Governor; if he approve, he shall sign it; but if not, he shall return it with the objections to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, two-thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of all the members present, it shall become a law, notwithstanding the objections of the Governor. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the members voting for and against the bill, shall be entered on the journal of each House respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Legislature shall, by their adjournment, prevent the return; in which case it shall not be a law.

Mr. SECOMBE. I move to strike out section nine. My reason is this: that the section seems to me more properly to belong under the head of the Legislative Department, and a similar section has been incorporated into the report of the committee upon that department. The duties which devolve upon the Governor are rather legislative than executive.

Mr. STANNARD. I want to know if the Governor does anything but what is executive?

Mr. MORGAN. It seems to me that a section defining the duties of Governor should come under the head of the Executive Department. That is the head under which this provision is usually found in most Constitutions. It is true that the same subject has been reported upon by another committee.

The amendment was not agreed to.

Mr. VAUGHN. As this report has now been gone through with, I move to go back and amend the third section adding to the section the words:

"The returns of election for Governor and Lieutenant-Governor shall be made in such manner as shall be provided by law."

Mr. ALDRICH. How are the returns to be made at the first election?

Mr. COLBURN. That will have no bearing upon the first election, and does not provide for the difficulties which arise in making the returns of that election, and after that time the returns will have to be made according to law anyway. I see no neccssity for the amendment.

Mr. BALCOMBE. I think the difficulty in regard to the first election can be obviated when we come to the consideration of the schedule. That is the proper place for it, but this is not.

Mr. STANNARD. This Constitution will be all the law we shall have upon the matter.

Mr. ALDRICH. It seems to me that this amendment would complicate the difficulties.

Mr. STANNARD. By inserting it here, it only leaves the matter open for future Legislatures to prescribe the manner in which the returns shall be made. It cannot injuriously effect the returns of the first election of Governor, because this constitution will be the law and the only law upon the subject.

Mr. BALCOMBE. I am in favor of the present amendment, but gentlemen ask the question, what shall be done with the returns of the first election. I think that matter can appropriately be considered and arranged under the head of Schedule. It should not be inserted here but should be left for a separate article.

Mr. PERKINS. I move, as an amendment to the amendment, the insertion of the words "all elections after the first." That will settle the question which has arisen here.

Mr. BALCOMBE. I am opposed to that. I still insist that there should not be a word in the body of the Constitution as to the transition State—the manner in which we shall change our form of government—until we come to the Schedule.

Mr. PERKINS. The original amendment applies to all elections after the first, and the

question arises whether it would have any application to the first or not. To save that question I moved my amendment. I believe that it is not unusual to have such words in Constitutions.

The CHAIRMAN. The amendment cannot be considered until it is passed up in writing.

The question was taken on Mr. VAUGHN's amendment and it was lost.

Mr. BATES. I move to amend the first section by inserting after the word "years," the words "and until his successor shall be "qualified," so as to make the Governor's office continue until the qualification of his successor.

The amendment was agreed to.

Mr. PECKHAM. I move to amend the ninth section by striking out the words "two-thirds" wherever they occur, and insert in lieu thereof the word "majority" so as to allow a majority of both Houses to pass a bill over the Governor's veto.

The amendment was rejected.

Mr. BILLINGS moved to strike out the words "shall have" in the same section, so that it should read "shall return it to the "House in which it originated."

The amendment was agreed to.

Mr. MORGAN. I now move that the committee rise and report the report and amendments to the Convention with a recommendation that they be adopted.

The motion was carried.

The committee accordingly rose and through their Chairman [Mr. NORTH] reported back the report and amendments, with a recommendation that they be adopted.

Mr. CLEGHORN. I move that the report be laid upon the table, and that it be made the special order of the day for Thursday next.

Mr. STANNARD. Is that motion debatable?

The PRESIDENT. The Chair thinks not.

Mr. STANNARD. I understand that the Convention has accepted the report. Now, sir, I do not rise to a question of order, but I do consider it a great evil to have a report, when made to the Convention, lie over for several days before it is considered. The report of the committee, laid upon our desks does not contain the amendments which have been made by the committee of the Whole. They are only in our memories, as it were, and I submit to you and to others, if it is not the usual and the better course to concur in the amendments made in committee of the Whole, immediately upon the reception of the report and amendments? All these amendments are now fresh in our minds, and to delay their consideration to a subsequent day, is a loose and careless way of doing business.

Mr. ALDRICH. It seems to me that while the matter is fresh in our minds we had better go to work and dispose of it. We have time to go through this report to-day. If we do so, we shall be ready in the morning to take up something else. I hope the gentleman will withdraw his motion unless there is some good reason for it.

Mr. WILSON. I think myself it is better to go on now.

Mr. CLEGHORN. I do not withdraw the motion.

The motion was not agreed to.

The Convention then proceeded to the consideration of the amendments as follows:

First amendment.—Insert after the word "years" in the second line of the first section, the words "and until his successor shall be appointed."

The amendment was concurred in.

Second amendment.—Strike out the word "one" in the first section, and insert the word "two," so as to require two years residence as a qualification for Governor.

Mr. MORGAN. I hope the amendment will not be concurred in. It seems to me that the people of this State ought to have the privilege of electing a man who has been in the State twenty or twenty-two months if they choose to do so. This Territory has been very recently settled, and many of its inhabitants have been here but comparatively a short time, and therefore it seems to me that we ought not to be restricted to two years residence. I think one year's residence is sufficient.

Mr. WILSON. I would rather have two years than one, and three years than two. This Constitution will probably last for years, and after a while when our State becomes settled, it will be impossible for the people to obtain that knowledge of a candidate for Governor, who has been in the State one year, as will enable them to vote intelligently. That is a very short time. Some demagogue may come among us and get the nomination, whom

we are not acquainted with, and who ought not to be elected.

The amendment was concurred in.

Third amendment.—Strike out the words "continuance in," and insert the words "term of."

Mr. NORTH. There may be some question whether that would refer to the time he is acting as Governor, or when he is in his position of Lieutenant Governor. Should not the section read—"The Lieutenant Governor shall, while acting "as Governor, receive" &c. I move to amend so that the section shall read in that manner.

The PRESIDENT. The Chair would suggest that while acting as Governor, he would receive the compensation fixed by law for Governor.

Mr. NORTH. Then as there are no duties assigned to the Lieutenant Governor, I shall, at the proper time, move to strike out the provisions relating to that officer entirely.

Mr. ALDRICH. The seventh section provides that he shall be President of the Senate, and while he serves in such capacity, he shall receive a salary.

Mr. NORTH. I was under the impression that that provision had been striken out.

Mr. ALDRICH. The amendment to that effect was rejected.

Mr. MORGAN. The same provision as to the compensation of the Governor occurs at the end of the fourth section. The words of that provision were taken either from the Constitution of New York, or that of Wisconsin. It seems to me that the words "term of" do not materially alter the matter. But there may be some question as to whether his "term of office," and "continuance in office," apply to the same period of time. I think it safer to leave the matter as it is in the section.

Mr. STANNARD. According to the amendment which has been adopted to the first section, the Governor holds his office two years. That I understand to be his term of office; though it also provides that he shall hold his office until his successor shall be qualified. Now if the Legislature, during the two years for which he was elected, should increase the salary of his successor, and the person subsequently elected should refuse to qualify, I am not disposed to deprive the Governor who holds on to the office, of the emoluments which result in consequence of the additional increased pay so provided for.

The amendment was agreed to.

Fourth Amendment.—In section nine strike out the words, "shall have," so as to make the clause read, "shall return it with his objections to the house in which it originated."

Mr. STANNARD. I hope the amendment will not prevail. It seems to me that the phraseology is much better than it is now, and I am not entirely clear but it conveys the same idea. I do not think a bill *originates* anything. It is itself *originated*, and I think that the words, as they are, should be retained.

Mr. MORGAN. I think the section, as it is printed is gramatically correct. It has reference to the action of future Legislatures, and not to past ones. It relates to some action which shall have been performed by by some future Legislature.

Mr. WILSON. I hope, by all means, that this amendment will not be concurred in. I think the section is correctly worded, and for the reasons assigned by the gentleman who last spoke. It says:

"But if not, he shall return it with his objections to that house in which it shall have originated."

—In which it shall, prior to that future time, have originated. It is evidently good grammar, and would not be if amended.

Mr. ALDRICH. I find the same words in the Constitution of the United States in reference to the same matter. I also find it in the Constitutions of New York and Wisconsin.

Mr. PERKINS. I think there can be no doubt but what there is a difference in the idea conveyed by the two expressions, and it seems to me very improper to concur in the amendment. The language of the Constitution of the United States is as significant as it can be, and it is the same language as is contained in this section.

Mr. BILLINGS. I do not understand that the gentlemen who have undertaken to give a grammatical construction to this language are grammarians by any means, though they may have blundered upon the truth. But we should use, in all instruments, just those words which convey our ideas clearly, and no others. The office of grammar is to lop off superfluous language, and to convey in direct and clear language our meaning, so that it shall not be susceptible of any misconception.

Now the fact that the words "shall have" are used in other instruments, is no reason, of itself, why we should use it. "It originated," conveys a perfect idea in itself, and of course it originated, and originated before it was sent to the Governor. Because the Constitution of the United States, and some Constitutions of the States, contain the words, is no reason, in my judgment, for their retention here.

These same gentlemen say we are progressing, yet they must go back, and like certain persons in Pennsylvania, who, because their fathers balanced a grist on one side of the horse by putting a stone on the other, forsooth must still carry a stone to balance their grist now. They go back to the Constitution of the United States, and say that because they find those words there, therefore we must have them here.

Mr. SECOMBE. I am opposed to the amendment for two reasons. One is, because the language of the section appears to be in accordance with the Constitution of the United States. That Constitution was drafted with great care, by men of learning and ability, and we may naturally conclude that they found the very best language that could be found. But that is not the principal reason why I oppose the amendment. It is because the words used in the original section are used in Murray's grammar, and in every other grammar that has ever been published since the world began, in exactly the sense in which we propose to use them. There are proper words for every place, and it strikes me that the words used here are in accordance with grammar, and express the meaning intended.

Mr. STANNARD. I supposed that the gentleman who made the motion to amend, did so as pastime, and to create fun and excitement. But it seems that he was in earnest. Now, sir, I studied grammar once, and it does appear to me that whenever we wish to express the idea, which all admit we intend to convey here, the past future tense should be used. Here we speak of a future thing, and we use the potential form—that the Governor shall do so and so *at* a future time,—and then we speak of something which happened prior to that future time and this is the only language that I know of that will convey that idea.

The amendment was rejected.

Mr. BATES. I would inquire whether it would not be well to strike out the words, "continuance in" and insert "term of," in the last line of section four, which applies to the Governor, so as to make it conform to the language of the eighth section as amended, which applies to the Lieutenant-Governor?

Mr. BILLINGS. I would inquire of the gentleman whether the words, "continuance in," are not used in the Constitution of the United States. (Laughter.).

Mr. STANNARD. I move that amendment.

Mr. SECOMBE. I am opposed to the amendment. There seems to be great doubt whether there is any difference between the two expressions. I should like to have it remain as it is, so that we may hereafter obtain the decision of the proper tribunal upon that point.

Mr. WILSON. If I am elected to serve two years in office, and serve six months, six months is my continuance in office, but two years is my term of office.

Mr. MORGAN. It seems to me that there may be a difference of meaning between the two expressions. In the first section we have provided that the Governor shall hold his office two years, and until his successor shall qualify. He may then hold his office for two years and six months, while he was only elected for two years, and his salary might be changed after the expiration of the two years, and during his continuance in office.

Mr. BILLINGS. I would refer the gentlemen to the language of article third, section first of the Constitution of the United States, which, speaking of the Judges of the Supreme Court, declares that they shall receive for their services a compensation which shall not be diminished "during their continuance in office." Now if there is any doubt, let us remove it by using both expressions. In one section we have adopted the words, "term of;" and now let us be right, anyway, and retain the words, "continuance in," in the other section.

Mr. STANNARD. We have provided that the Governor shall hold his office, not only during two years, but until his successor shall be qualified. Suppose the Legislature shall increase the salary of the Governor, to take effect on and after the expiration of the term of the incumbent. Now I would not jeopard-

ize that act of the Legislature by allowing the words, "continuance in," to remain in the Constitution. The person who is obliged to remain in office should have the emoluments of the office, and be entitled to the increased salary allowed by the Legislature.

Mr. SECOMBE. I differ with the gentleman who last spoke, as to what the term of office of the Governor is. The language is that—

"The executive power shall be vested in a Governor, who shall hold his office for two years, and until his successor is qualified."

—The term is two years absolutely, and contingently an additional length of time. So that his term is the whole length of time he actually holds office.

Mr. COLBURN. I hope the amendment will not prevail, and that we shall re-consider the vote by which we struck out these same words from the eighth section. I prefer the term used in the Constitution of the United States.

Mr. STANNARD. I call for the yeas and nays upon the amendment.

The yeas and nays were refused.

The amendment was then rejected.

Mr. COLBURN. I now move to reconsider the vote by which the amendment to the eighth section was adopted, striking out "continuance in," and inserting "term of."

Mr. STANNARD. I do not want to trespass upon the patience of the Convention, but I must say one word upon this matter. I will suppose a plain case, and then leave the matter. Suppose that the term of office of the Governor of the State of Minnesota expires on the first day of March 1865: Suppose the next preceding Legislature passes an act increasing the salary of the Governor $500, to take effect the day after the next Governor should take his office; and suppose the Governor elect should fail to qualify at that time and the Governor should hold over, now under the wording of the section as it originally was,—"continuance in office"—that law would be unconstitutional, for the Legislature cannot increase the pay during his continuance in office. I submit the subject to the candid consideration of the Convention.

Mr. WILSON. That clause from the Constitution of the United States which has been read here, happens to be as inapplicable to this case, as something read from TOM HOOD'S ballads. That clause related to the Supreme Court Judges who have a life long tenure, or as long as they behave themselves. But take the clause relating to the President of the United States, and what is that? "The President shall at stated times, receive for his "services a compensation which shall neither "be increased or diminished during the period "for which he was elected"—or during the term of his office,—which are synonimous.

Mr. PERKINS. The great idea which pervades this whole matter, whether relating to the President of the United States or any other officer, is that as long as he exercises the duties of his office, his compensation shall neither be increased or diminished. Now it seems to me that the words "continuance in," are more appropriate than "term of" and conveys the idea that so long as he continues in office and performs its functions, his compensation shall not be increased or diminished.

Mr. SECOMBE. There is another case we may suppose. The Governor resigns his office at the end of the first year, and a new incumbent takes his place. Is there any reason why his salary should not be increased? And yet he would be still holding during a part of the term of office of the preceding Governor.

Let us look at the reason of this provision. It is that the Governor himself, being a part of the law making power, shall not increase his own salary, by assisting the Legislature to pass a law to that effect—for every law must receive his sanction. Now the words "continuance in office," provide for that contingency. If he leaves the office before the expiration of his term, the reason is lost, and if he holds over longer than two years, the reason holds good.

Mr. COLBURN. I would inquire whether the Governor has the power to resign by his own voluntary act? The first section says that the Executive power shall be vested in a Governor, who shall hold his office for two years.

Mr. ALDRICH. Section sixth provides for a resignation.

Mr. COLBURN. I judged from the remarks of the gentlemen from Chisago

county, that it would hold the Governor absolutely. If that is not the true meaning of this provision, or if any provision is made for resignation, he cannot be compelled to remain in office contrary to his will, and receive a low salary.

The question was taken on the motion to reconsider, and it was decided in the affirmative.

Mr. WILSON. Have we a quorum present?

The PRESIDENT. That can only be determined by ordering a call of the Convention.

Mr. BOLLES moved (at five o'clock and forty-five minutes) that the Convention adjourn.

The motion was not agreed to.

The question then recurring upon adopting the amendment to strike out "continuance in," and insert "term of"——

Mr. STANNARD called for the yeas and nays, which were ordered.

The question was then put, and the roll being called, no quorum answered to their names.

Thereupon on motion of Mr. LOWE, (at five o'clock and fifty-five minutes) the Convention adjourned.

FOURTEENTH DAY.

TUESDAY, July 28, 1857.

The Convention met at nine o'clock, A. M.

Prayer by the Chaplain, E. D. NEILL.

The journal of yesterday was read and approved.

EXECUTIVE DEPARTMENT.

The first business under the order of proceedings, was the consideration of the amendments to the report of the committee on the Executive Department, reported from the committee of the Whole.

The PRESIDENT stated the first question to be on the amendment proposed to the eighth section, to strike out the words, "con- "tinuance in," and insert "term of."

Mr. SECOMBE. As there are many members present this morning who were not here during the discussion yesterday on this amendment, I will state the reasons why I opposed the amendment. The section, as originally proposed by the committee, provides that during the "continuance in" office of the Lieutenant-Governor, his salary shall not be increased or diminished. As I stated yesterday, there is a reason for such a provision as that being incorporated here. The Lieutenant Governor, by the terms of another section, is made a part of the legislative power of the State. He is President of the Senate, and has a casting vote. Consequently any law passed during his continuance in office, raising his salary would be liable, at least to be passed by his own vote. It is highly improper, to say the least, that an officer of the Government should have the privilege of fixing his own salary. The recommendation of the committee of the Whole was to strike out the words "continu- "ance in," and insert "term of." The only difference which would be made by that amendment, as I can see, would be this: the words, "term of," would apply to the whole term for which the Lieutenant-Governor was originally elected, and that would be, according to the first section, two years absolutely, and contingently, an additional length of time. Consequently the salary of that officer could neither be increased or diminished during that term, whether he occupied it all the time, or some other person took his place. As the matter now stands, in case of the removal, resignation, or other disability of that officer, during that term, it would allow the incumbent of the remaining portion of the term to receive the benefits of the salary which might have been increased during the first part of the term. I see no reason why that should not be the case, because the reason of the rule being gone, the rule itself has lost its efficacy. The Lieutenant-Governor who had a part in passing that law having gone out of office, the new man coming in to fill the balance of the term, would rightfully receive that salary. Those are the reasons which induced me to vote as I did yesterday, and which I hope will induce the Convention to vote against the amendment.

The amendment was not agreed to.

Mr. BILLINGS. I move to strike out from the seventh section the words:

"He shall be President of the Senate, but shall have a casting vote therein."

—I made that motion yesterday, but I renew it to-day because there are many present now who were not here then.

Mr. BATES. I hope it will not prevail. If we are to have a Lieutenant-Governor, I do not see why all power should be taken from him. It is customary in almost every State of the Union for the Lieutenant-Governor to be President of the Senate.

The amendment was not agreed to.

Mr. MORGAN. I move that the report be now read a third time and put upon its passage.

The PRESIDENT. The Chair would state that it cannot be done without a suspension of the rules. Before that is done, it is usual to have a bill or report properly engrossed.

Mr. STANNARD. I rise to a question of order. One of our rules requires that the third reading shall be upon a day subsequent to the first and second reading. Hence it cannot be read a third time to-day.

The PRESIDENT. The point of order is well taken, and it can only be read now under a suspension of the rules.

Mr. SECOMBE. I move that it be ordered to be engrossed for a third reading.

Mr. STANNARD. I would enquire if there is an Engrossing committee?

The PRESIDENT. There is not.

Mr. STANNARD. Then I move to amend the motion so as to refer it to the committee which reported it, for engrossment.

Mr. SECOMBE. I accept of that amendment, if that is the proper method. Perhaps it is the duty of the Secretary to perform that service.

Mr. MORGAN. I would enquire if the report should not be referred to the committee on Arrangement and Phraseology, before it is engrossed.

The PRESIDENT. The report should be engrossed, read a third time and passed, before reference to that committee.

The report was then referred back to the committee on the Executive Department for engrossment.

PROPOSITION OF CONGRESS.

On motion of Mr. SECOMBE, the Convention resolved itself into a committee of the Whole on the report of the committee on Public Property and Expenditures, (Mr. VAUGHN in the chair.)

The report was read as follows:

> The Committee on Public Property and Expenditures, to whom was referred a resolution in relation to the propositions of Congress contained in the fifth section of the Enabling Act, and the subject matter thereof, have given their consideration to the same, and beg leave to report the accompanying draft of an article on the said subject; and ask leave to report at a future time on the other matters properly coming before them.
>
> The propositions contained in the fifth section of the act of Congreas, entitled "An Act to authorize the people of the Territory of Minnesota to form a Constitution and State Government preparatory to their admission into the Union on an equal footing with the original States," and each of the same are hereby freely accepted, ratified and confirmed; and it is hereby ordained, irrevocably without the consent of the United States, that the State of Minnesota shall never interfere with the primary disposal of the soil within the same, by the United States, or with any regulations Congress may find necessary for securing the title in said soil to *bona fide* purchasers thereof; and that no tax shall be imposed on land belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents.

No amendment being offered,—on motion of Mr. SECOMBE, the committee rose, and reported the article to the Convention with a recommendation that it be adopted.

Mr. WILSON. I do not like the form of the article, at first sight, I think that the proposition of Congress, accepted by this article, should have been written out in full. It refers to another document to ascertain what those propositions are, and if we want to see them we must refer to that other document which is in no wise connected with this. In Iowa, which came into the Union under an Enabling Act similar to ours, they set out the propositions in full, and then declared specifically that they adopted those propositions. I think that would be the proper course in this case.

Mr. MURPHY. I move that the article be laid on the table.

The motion was agreed to.

BOUNDARIES OF THE STATE.

Mr. COLBURN. I move that the Convention resolve itself into a committee of the Whole, to consider the report of the committee upon Boundaries.

Mr. WILSON. I am not inclined to ask favors, but I will state why I shall do so in this instance. I have been unable to find a map in this city giving our Territory, surveyed and unsurveyed, in full. As a member of

that committee, and the only one who dissented to the boundaries laid down in that report, I wish to make a minority report, and I ask the Convention to grant me the favor of passing the subject over to-day, to allow me time to make that report, so that it can be acted upon with the majority report. It will not delay our proceedings as we have plenty other business to occuyy our attention.

Mr. COLBURN. I decline to withdraw my motion. Ample time has elapsed since that report was made to enable the gentleman to make a minority report.

Mr. WILSON. I will state that I will make that report to-morrow, whether I get a map or not.

Mr. NORTH. I hope the request will be granted.

The motion was not agreed to, and the report was laid over.

BANKING CORPORATIONS, &C.

On motion of Mr. MORGAN, the Convention resolved itself into a committee of the Whole upon the report of the committee upon Banking and Corporations other than Municipal,—Mr. HOLLEY in the Chair. (For report, see proceedings July twenty-fourth.)

The report was read by sections, and the following proceedings took place:

SEC. 2. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of State, of all bills or paper credit, designed to circulate as money, and require security to the full amount thereof, to be deposited with the State Treasurer, in United States Stocks, or in interest paying stocks of States in good credit and standing, to be rated at ten per cent. below their average value in the City of New York, for the thirty days uext preceding their deposit; and in case of a depreciation of any portion of such stocks, to the amount of ten per cent. on the dollar, the bank or banks owning said stocks, shall be required to make up such deficiennoy by depositing additional stocks; and said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of transfer, and to whom.

Mr. CLEGHORN offered the following amendment:

"Strike out all after the word 'enacted' and insert the following: 'The Legislature shall provide by law for the registry of all bills or notes issued or put in circulation as money, and shall require ample security for the redemption of the same in specie.'"

Mr. BATES. I hope the amendment will not be adopted. I am aware that our Territory wish for banks, but they wish for those in which they can have confidence, and with such security that they can feel perfectly safe. We know very well the result, to our Western States generally, of having banks without having ample security. Adopt the amendment proposed and I do not believe our people will feel safe. I believe the result would be very injurious to our banking system as a whole, and hence I am opposed to it.

Mr. LOWE. I hope the amendment will be adopted, or something similar to it. It seems to me that the provision proposed by the committee is obnoxious to the same objection which has been made to many other provisions reported by other committees—that it infringes upon the legislative department of the government. I think if there is any error which this Convention can commit, and which will be just ground for impeaching its action, it is that of infringing upon the duties of the other department of the government. There seems to be a tendency in this Convention to do so, and perhaps they will do it at all hazards. So far as I am concerned I dissent from any such proceedings.

Mr. SECOMBE. I hope the amendment will not prevail. This section was incorporated into the report by the unanimous consent of the committee, though not originally in accordance with the unanimous feelings of the committee. I think if there is any one point which we should guard more than all others, in framing a Constitution to be submitted to the people for acceptance or rejection, it is this one. It is well known that in the new States great difficulty has been experienced in regard to the institution of banks, and that great objection has been made to any banking system. But that has resulted not from any objection which people had to banks, but to the unfortunate system of banking which has prevailed throughout the western world. That opposition has been carried so far that in Wisconsin it was provided in their Constitution that no banking system should ever be adopted by the Legislature, until they had first submitted to the people the direct proposition of "banks or no banks," and further, after they had determined that it was their wish either to have a general

banking law, or special bank charters, that no such system or special charter should take effect until it had been first submitted to a direct vote of the people.

In Iowa there has been a constitutional provision against banks; but their Constitution, recently framed, authorizes their Legislature to incorporate banks. It is from that Constitution that the article under consideration has been taken in all its material features. The great necessity of a revision of the Constitution of Iowa resulted from this very subject, and the main feature, in the revised Constitution, which is to be submitted to the people next month, for adoption, is this banking question.

Now, Mr. President, while I am satisfied that a large majority of the people of the proposed States are in favor of some system of banking, I am equally well satisfied that they will look with the closest scrutiny upon that system, and that they will demand that the Legislature, if they are authorized to enact either a general banking law, or special charters, shall be bound by the strictest provisions. They will demand that the grant of that power to the Legislature, shall itself secure a safe system. The proposition of the gentleman from Fillmore County (Mr. CLEGHORN) is a very good proposition. It provides that there shall be ample security. Now no one wants anything more than ample security, but the people of the proposed State want to know, before they vote for banks what that security is to be. I believe they will be afraid to trust that important matter to the Legislature, and that if we adopt a system liable to the objection that that proposition is open to, it will meet with the disapprobation of the people of the proposed State.

I know that there is a class of citizens who will be very hostile to the system which we have proposed. Who compose that class? Are they the farmers, the mechanics, the tradesmen? Are they a larger proportion of the people who are to live under this provision? Assuredly not. They are those who embark in the business of banking, for the purpose of making more money in that way than they can in any other. Now that is very laudable, and I have no objection that the man of means should make just as much money out of his capital as he can, provided he does not do it at my expense and risk. I am aware that this provision will not leave them a chance to make money enough, and consequently they will turn their money into some other channel. Very well, let them turn their capital in some other direction where they can make more money, but less poor men.

I propose briefly to consider the provisions of this second section. In the first place it provides that if "a general banking law shall "be enacted, it shall provide for the registry "and countersigning, by an officer of State, of "all bills or paper credit, designed to circu- "late as money." Now the proposition of the gentleman from Fillmore county makes no such proposition as that. The term "ample security," which he uses, implies that the Legislature may use their discretion in that matter. Now I believe that no very respectable number of the members of this Convention will be willing to waive the requirements of a registry and countersigning of all bills that are to be issued.

It requires in the next place, that the Legislature shall "require security to the full "amount thereof to be deposited with the State "Treasurer." I trust that no man here, and that no honest and respectable banker, will object to that. The banker has the benefit of sending out his own promissory notes upon the community, and of receiving his rates of interest for the loan of them, and certainly he cannot object to providing security for those notes.

But it is provided further, that this security shall be in "United States Stocks, or in "interest paying stocks of States in good "credit and standing, to be rated at ten per "cent. below their average value in the City "of New York, for the thirty days next pre- "ceeding their deposit." Now if there is any necessity of having any security, there is an equal necessity for having good security. This is not a mere matter of form. This security is to lie in readiness to apply to the payment of those notes in case of a failure on the part of the maker to meet them, so that if you, Mr. Chairman, should hold the note of a broken bank for five dollars, you would be able to get your five dollars in full.

But it is said, that in order to bank under this provision, for every ten thousand dollars

capital, the banker has to lie out of one thousand dollars. In other words, that if he buys ten thousand dollars worth of par stock, he can only send out nine thousand dollars worth of notes. Now there is a very good reason for that. Suppose he sends out nine thousand dollars worth of notes and by-and-bye fails; there is the ten per cent. to pay the expenses of winding up the concern, so that the individuals who hold those notes may receive their nine thousand dollars in full. If the bank had deposited only nine thousand dollars worth of stocks, there certainly would be a loss.

The next provision is that "in case of a de-"preciation of any portion of such stocks, "to the amount of ten per cent. on the dol-"lar, the bank or banks owning said stocks, "shall be required to make up such deficiency "by depositing additional stocks." A very necessary provision, if it is intended that it should amount to anything, and for the same reason that is necessary that the stocks should be rated at a less amount than their par value in the first instance.

The last provision is that "said law shall "also provide for the recording of the names "of all stockholders in such corporations, the "amount of stock held by each, the time of "transfer, and to whom." A very necessary provision taken in connection with a subsequent one, contained in section four, which provides for the individual liability of stockholders in addition to the security already provided.

Now, Mr. Chairman, as a member of the the committee to whom this matter was referred, and as a member of this Convention, I am unwilling to send out to the people of Minnesota a Constitution unless it contains some provision equivalent to this. I believe it would be ruinous to the Constitution, and that it would be unwise and unsafe. I therefore hope the amendment will not prevail.

The amendment was rejected.

Mr. COLBURN. I move to amend by striking out all between the word "require," in the third line, and the word "and," in the eleventh line, and insert in place thereof, as follows:

"Ample collateral security, easily convertible into specie, to be deposited with the State Treasurer, for the redemption of all such paper credit, and shall provide for the election of three bank commissioners, a part of whose duty it shall be to examine, and decide upon the sufficiency of all security offered for deposit; and they shall rate such securities at least fifty per cent. below their real value, and in case of a depreciation of any portion of such securities to the amount of twenty per cent. on the dollar, they shall require the bank or banks owing such securities to deposit additional securities."

As a member of the committee which made this report, it may be expected that I should assign some reason for now offering an amendment to that report. Although the gentleman who has just taken his seat remarked that the report was made by the unanimous consent of the committee, it did not coincide with the views of all the members. I did not wish to make a minority report, but choose to offer an amendment at the proper time.

I am in favor of giving all necessary security to bill holders, and of protecting the community under any banking system. As remarked by the gentleman from St. Anthony, (Mr. SECOMBE), I believe the people of the proposed State will actually require a banking system for the issue of paper currency, upon some basis or other. The question arises then, how can such a system be established, giving sufficient security to the community, and at the same time holding out sufficient inducement to capitalists to engage in it. Under the provisions of this section, it seems to me there will be very little inducement for years to come, for men of capital to engage in banking business. It requires that they shall deposite with the State Treasurer security to the amount of their issues in United States stocks, or of paying stocks of States in good credit, to be rated at ten per cent. below their average value for thirty days next preceeding their deposite. And then in addition to that, they of course must have specie in their vaults to redeem their paper as presented. Take the basis supposed by the gentleman for an illustration. With a capital of ten thousand dollars, only nine thousand dollars of paper could be issued, and then, besides that, the banker would be obliged to keep two or three thousand dollars of specie to redeem paper as presented. Here then would be a capital of thirteen thousand dollars invested for the purpose of issuing nine thousand

dollars in bills. Now I do not believe our capitalists in Minnesota will be induced to sell their real estate at the present time, or for some time to come, and invest their money in United States or State stocks to deposit with the Secretary of State as security for banking business. It seems to me that the proposition I have offered will give ample security, and all that can reasonably be asked for by the community for the paper which shall be issued. It provides that such collateral security shall be rated at least fifty per cent. below its real value by three Bank Commissioners to be chosen, whose duty it shall be to look at the banking interest of the State. If, in the course of their duties, they find those securities have depreciated in value twenty per cent., they shall require the bank owning such securities to deposit addditional security, so that the community shall be continuously safe.

I am aware that it will be objected to this kind of security, that those Bank Commissioners are men who in times of political excitement, and perhaps at other times, may be bought, or induced in some way or another to act in the discharge of their duties, for the interest of the capitalists, and to the injury of the community. In other words, that they may be corrupted, and will not do their duty as prescribed by the Constitution and the laws. Now I am in favor of throwing around all our State officers all necessary guards and restrictions, but I think there is manifested in this Convention too much suspicion, and the idea seems to pervade the minds of some that we are the only pure and immaculate body which will ever assemble in this capitol, and that those who come after us will be corrupt, and that the officers of the people are not to be trusted in the remotest degree, if we can restrict them. I am in favor of leaving something to the people, and something to the officers of the people. The only way in which we can establish a banking system at all, is to leave something to the people hereafter. I desire to have the system so arragned that the capitalists of our own State will engage in it. If the original section is adopted, and we have banks at all, the capital will be owned by persons not residing in our State, but by those living in other States who are not here, and cannot be here to engage in the speculations which are more lucrative than banking. Capitalists from New York, Philadelphia, and Boston may possibly be induced to engage in banking under such a law, and to the exclusion of capitalists living in our State.

I do not desire to discuss the report now at length, but I want to hear the views of other gentlemen upon it; and hereafter I shall move to re-commit this report to the committee in which it originated.

Mr. FOSTER. I confess that this matter has taken me somewhat by surprise. In taking a first glance at this report, I must say that I think we are entering upon a very dangerous and doubtful experiment. If this article is adopted, we prescribe the details of a banking law, upon which there are as many opinions perhaps as there are capitalists. To say at this time, what our banking system shall be three or four years hence, I regard as exceedingly premature. The attempt to establish a permanent banking system now, must result, as every such attempt has resulted in new communities, in disaster and loss, and the general breaking up of confidence in the community. We should be exceedingly cautious in our action upon this matter at the present time.

Another thing, it is exceedingly doubtful whether it is good policy to legislate, in a Constitution which we are to submit for the adoption of the people, upon subjects on which there are such diverse opinions. We had better adopt a general article, authorizing the establishment of a banking system by the Legislature, after the submission of the question to the people whether they will or will not have such a system. That appears to me to be the safer course. It was adopted in Wisconsin when they framed their Constitution. They waited there until the people were ready to have banks, and when the people had so expressed their wish, a system was adopted which is probably the best one in existence. And when that system was established by the Legislature, it was again submitted to the people, and they ratified it. I think we had better pursue the same course, under the peculiar circumstances in which we are placed.

The amendment was not agreed to.

Mr. LOWE. I move that the report be

recommitted to the Committee which reported it, with instructions that they report for the consideration of the Convention a provision similar to that contained in the Constitution of Wisconsin.

Mr. FOSTER. I second that motion, but before it is put I will read the clause in the Wisconsin Constitution:

"The Legislature shall not have power to create, authorize, or incorporate, by any general or special law, any bank, or banking power or privilege, or any institution or corporation having any banking power or privilege whatever, except as provided in this article.

"The Legislature may submit to the votes at any general election, the question of "bank or no bank," and if at any such election a number of votes equal to a majority of all the votes cast at such election on that subject shall be in favor of banks, then the Legislature shall have power to grant bank charters, or to pass a general banking law, with such restrictions and under such regulations as they may deem expedient and proper for the security of the bill-holder. *Provided*, that no such grant or law shall have any force or effect until the same shall have been submitted to a vote of the electors of the State at some general Election, and been approved by a majority of the votes cast on that subject at such election."

Mr. SECOMBE. I am opposed to this motion for two reasons, the first is, that we have not yet discovered that there is objection, to any considerable extent, to the present report of the committee. Two propositions have been made to amend section second, and they have received but a slight support. Again—

Mr. WILSON. I rise to a question of order. Is it in order in committee of the Whole, to move to commit to a committee?

The CHAIRMAN. It is not.

Mr. LOWE. Then I move that the committee rise and report the report to the Convention with a recommendation that it be recommitted to the committee from which it came, with the instructions I before mentioned.

Mr. SECOMBE. I supposed that such was the purport of the gentleman's motion. It does not seem to me that it would be justice to the committee which has had the subject under consideration, and have made their report, to summarily refer it back to them when we have had no great amount of objection made to it.

I also am opposed to the motion because it gives directions to that committee what particular report to make. I object to it again because I am opposed to the system which it is proposed the banking committee shall report.

As I said when I was up before, I am satisfied that the people of the proposed State want banks, and that, too, immediately, and I would not be willing to subject them to the necessity of waiting until the matter could be submitted twice to themselves. The Wisconsin Constitution, provides that the Legislature shall have no power to pass any bank charter, or pass any general banking law, until they had ordered—

Mr. STANNARD. I rise to a point of order. A motion that the committee rise, according to our rules, must be decided without debate.

Mr. WILSON. I rise to a point of order. Was there not a motion pending before the committee when the motion to rise was made; and is it not therefore out of order now?

The CHAIRMAN. I prefer to leave the committee to decide the question whether the gentleman who is speaking is in order.

Mr. SECOMBE. I would like to speak to that point of order before it is decided.

Mr. LOWE. I withdraw my motion.

Mr. STANNARD. I make the motion that the committee rise and report the report to the Convention with a recommendation that it be recommitted to the Standing Committee.

Mr. SECOMBE. Is the motion debatable?

The CHAIRMAN. The Chair thinks not.

Mr. SECOMBE. It is not a simple motion to rise, but is coupled with other matter.

The CHAIRMAN. The Chair understands that, according to the rule, it must be decided without debate.

Mr. WILSON. I rise to a question of order. Is not a motion that the committee rise, the same to the committee of the Whole, that a motion to adjourn is to the Convention?

The CHAIRMAN. The Chair thinks it is.

Mr. WILSON. Well a motion to adjourn, with anything else attached to it loses its privilege, and becomes debatable like every other motion. A motion therefore that the committee rise, with another matter attached to it, loses its privilege, and is debatable. I I think the analogy is so clear that there can be no doubt about it.

The CHAIRMAN. The Chair has decided that question.

Mr. SECOMBE. I appeal from the decision of the Chair. The point taken by the gentleman from Winona is the view I have of the matter. A simple motion to rise is not debatable, but a motion tangled with other matter, like this, is debatable.

Mr. LOWE. I move to amend the motion, so as to make it a simple motion to rise.

Mr. STANNARD. I accept the amendment.

Mr. WILSON. When matters stand in their present position, can such an amendment be offered?

The CHAIRMAN. Under the decision of the Chair the opinion of the Convention should be had upon the motion of Mr. LOWE, that the committee rise and report with instructions, &c.

Mr. SECOMBE. The point I appealed from is this: Mr. LOWE withdrew his motion and Mr. STANNARD renewed it, and the Chair decides that the motion is not debatable. From that decision I appealed to the committee.

The CHAIRMAN. Is the Chair to understand that Mr. LOWE withdrew his motion?

Mr. SECOMBE. He did, and Mr. STANNARD renewed it.

Mr. FOSTER. I suggest that the motion now is simply that the committee rise.

Mr. SECOMBE. I suggest that it is not, for the reason that before that amendment was offered, an appeal was taken from the decision of the Chair that the motion of Mr. STANNARD was not debatable; and consequently, it seems to me, that it would be out of order. The question is now whether the Chair shall be sustained.

Mr. BALCOMBE. It is evident that the committee is not ready to take a calm consideration of the subject before it, and therefore I move that the committee now rise. That motion takes precedence of all others and is not debatable.

Mr. SECOMBE. I rise to a point of order.

Mr. BALCOMBE. The gentleman is out of order in rising to debate the motion that the committee rise.

Mr. SECOMBE. That motion has not been seconded.

A MEMBER. I second the motion.

The CHAIRMAN. The question is shall the decision of the Chair stand as the judgment of the Convention, as an appeal is taken from the decision of the Chair that the motion of Mr. STANNARD was in order.

Mr. SECOMBE. With the indulgence of the Chair, I would state that my appeal was taken from the decision that the motion of Mr. STANNARD was not debatable.

The CHAIRMAN. The Chair intended to decide that the motion of Mr. STANNARD was in order, and he supposed the appeal was from that.

Mr. SECOMBE. That was not the ground of my appeal at all, and if the Chair has not made such a decision, I will resume my remarks.

Mr. FOSTER. Mr. STANNARD modified his motion, to a simple motion that the committee rise.

Mr. STANNARD. Mr. LOWE moved that as an amendment and I accepted it.

The CHAIRMAN. It appears to the Chair that an appeal having been taken, it should be decided.

Mr. HAYDEN. I beg to say that no such appeal as the Chair supposes was made. An appeal was taken from a supposed decision of the Chair that the motion was not debatable, but the Chair says he made no such decision.

Mr. FOSTER. I understand that Mr. SECOMBE withdraws his appeal.

Mr. SECOMBE. I sat down simply because the Chair said he had made no such decision as that from which I appealed.

The CHAIRMAN. The Chair will put the question on the motion that the committee rise.

The question was then taken and the motion was agreed to.

The committee accordingly rose and reported progress on the bill.

Mr. COLBURN. I now move that the report be re-committed to the committee from whence it came.

Mr. ALDRICH. Does the gentleman intend to include in his motion instructions to the committee?

Mr. COLBURN. That was not my intention. I will briefly give my reasons for the motion. At the time this committee re-

ported, there seemed to be but little business before the Convention, and it was thought desirable to make the report as soon as possible in order that the Convention might have something to do. The report was hurried along faster than it should have been, and was not duly considered by the committee. If the committee had taken more time, they would have reported differently from what they did. That is the reason why I desire to have it re-committed without instructions.

Mr. SECOMBE. I am opposed to this motion for the reason that it has not yet become apparent to the Convention, that the report is not in accordance with their wishes. We have but slightly considered it in committee of the Whole, and so far as consideration was given to it, there seems to be a very general satisfaction with its provisions.

The remark by the gentleman that sufficient time was not given to this proposition, while it was before the Committee I cannot coincide in. The matter was, so far as I know, fully and thoroughly discussed, and there seemed a general acquiescence upon the part of the committee, that we should have something in the nature of this second provision. I do not see any reason yet why we should re-submit this matter to the committee when they have already performed their duty, and submitted a report which we have not yet had time to consider in committee of the Whole.

Mr. BOLLES. As a member of that committee I would certainly approve of the motion to re-submit. Not that I have received any new light, but that I am satisfied that the chairman is not gratified with his own report. We have an abundance of time, and the action of the committee will not be delayed. I am willing to let that committee concoct any plan they or their chairman may have in view. I certainly will not shrink from going into an investigation of the matter again. I myself think we hurried the matter through more than we should have done. It was so hurried because we were anxious to get some business for the Convention to act upon.

The question was taken on the motion to re-commit, and it was carried.

Mr. WILSON. I now move that Mr. CLEGHORN be added to that standing committee. He offered an amendment to the report which is worthy of consideration, and I think he ought to be added to the committee.

Mr. FOSTER. I hope that will not be agreed to. I myself proposed to offer an amendment, and should I be added to the committee on that account? If we do this, there is no telling where we shall end.

Mr. BOLLES. I suggest to the Convention that any suggestions which may be made to the committee will be considered.

The motion was not agreed to.

PUNISHMENT OF CRIMES.

On motion of Mr. COLBURN, the Convention resolved itself into a committee of the Whole, (Mr. WATSON in the chair,) upon the report of the committee upon the Punishment of Crimes. (For report, see proceedings of July 24th.)

The report was read by sections for amendment.

SEC. 1. No person shall be held to answer for a capital or infamous crime, unless on a presentment or indictment of a grand jury, except in cases of impeachment, or in cases cognizable by a justice of the peace, or in cases arising in the army or navy, or in the militia when in actual service, in time of war or public danger. The Legislature shall provide by law a suitable and impartial mode of selecting juries, and their usual number and unanimity, in indictments and convictions shall be held indispensable.

Mr. MORGAN. I move that that section be stricken out, and my reason for such a motion is, that the ground is fully covered by the report of the committee upon the Preamble and Bill of Rights. I was a member of the committee which made this report, and consented to its being made in this form, for the purpose of having it come before the Convention, but I never approved of making a separate article in the Constitution upon this subject. I have seen but one Constitution where the provisions of this section have been provided for in a separate form. Article first of this section is provided for in article eighth of the Bill of Rights. If these sections are adopted in the form in which they are here reported, it will be necessary to strike them out from the Bill of Rights, where they were all passed upon in Convention.

Mr. BOLLES. I hope the motion will not prevail. You remember that the question was raised when the Bill of Rights was under

discussion, that it included matters properly belonging to other committees, and that report was objected to upon that ground. But that is no good reason why this report should not be adopted, and those redundant articles in the Bill of Rights be stricken out there.

I believe it is the sense of this Convention that we should have something in our Constitution which should be the basis upon which our criminal code shall be founded, and there is no better way, in my judgment, than to incorporate an article, going into the details somewhat, prescribing what the Legislature may do, and may not do, in the premises. And I will say to the Convention, that when the proper time arrives, I have a substitute to offer to the whole Bill of Rights, simplifying it, and making it what it should be,—a simple declaration of rights and nothing more —declaring fundamental principles and leaving it for the body of the Constitution, under proper and legitimate heads, to carry out those simple declarations.

Mr. KING. One difficulty arises in regard to the motion before the Convention, and that is, if you strike out the whole section you strike out a provision securing to us one of our most important rights, which is that the Legislature shall provide by law "a suitable and "impartial mode of selecting juries, and their "usual number and unanimity." It is only the first part of this section which is contained in the eighth section of the Bill of Rights. But the Bill of Rights is not a Constitution, but simply a declaration of what shall be contained in the Constitution, and what it shall be based upon.

Mr. MORGAN. The matter which has just been spoken of, is provided for in the seventh section of the Bill of Rights, which provides that the criminal shall have compulsory process to compel the attendance of witnesses in his behalf, and in prosecutions by indictment or information, to a speedy and public trial by an impartial jury of the county or district wherein the offence shall have been committed. It is impossible for us, in framing a constitution, to go into details, and state and re-state that the Legislature shall enact provisions for obtaining impartial juries. A Constitution is some general directions as to the formation of the State Government, and the enunciation of some general principles upon which legislation shall be founded. If we go into details, and introduce every proposition which may be good in itself, and proper at some time to be introduced as matters of legislation, we shall make a Constitution as large as a book of statutes. I am utterly opposed to all these details. They seem to me unnecessary and uncalled for.

Mr. COLBURN. I am opposed to striking out the section, substantially for the same reason that I was in favor of striking out a similar provision from the Bill of Rights. I deem this the appropriate place for it, and as the Bill of Rights has not been finally acted upon, I shall vote to retain this section here, and when the Bill of Rights comes up, I shall move to strike out the provision then.

Whether other States have arranged their Constitutions in this form or not, I think it preferable to retain it here.

Mr. FOSTER. It strikes me that this article provides for something more than the article in the Bill of Rights. It contains certain qualifications which are not contained in that. The Bill of Rights says: "Except in "cases of impeachment, or in cases cogniza- "ble by a justice of the peace, or in cases "arising in the army or navy, or in the mi- "litia, when in actual service in time of war "or public danger." But this section says further, that "the Legislature shall provide "by law a suitable and impartial mode of "selecting juries." That would seem to be necessary. Then it goes on to say—"and "their usual number and unanimity, in indict- "ments and convictions, shall be deemed "indispensable." I must confess I do not understand exactly what that means. But notwithstanding it speaks of the usual number of jurors, section eleventh of the same report, says that the Legislature may authorize trial by jury of a less number than twelve men in the inferior courts of the Strte. I have no objection to the article though I think its meaning might be more clearly expressed.

Mr. BALCOMBE. I am in favor of striking out this section for the reason, first, because I consider it a species of legislation unnecessary to be inserted into the Constitution; and secondly, because the wording of this section is not as good as that of the eleventh section of the Bill of Rights. That is more

compact and partakes much less of the nature of legislation.

Again, the proper place for a clause of this import, is in the Bill of Rights. All States which have adopted a Constitution with a Bill of Rights, have inserted such a clause in the Bill of Rights. By common consent it seems to have been conceded that that is the proper place for this subject matter.

Mr. LOWE. I was a member of the committee which made this report, and I would be glad to have it receive the compliment of a consideration by the Convention. Nevertheless it seems to me that nearly the whole of the subject matter of this report has been acted upon carefully by the committee of the Whole when they had under consideration the report of the committee on the Bill of Rights. If we go through this bill we shall have to travel over the whole ground again, and it will only tend to bring us into a state of confusion upon the subject. It strikes me that it would be better to refer the matter back to the committee with instructions to report only so much as has not been acted upon before. I move that the committee now rise, and if that is agreed to, I will move in Convention, that it be recommitted to the committee from which it came.

The motion was agreed to.

The committee accordingly rose and reported the report to the Convention.

Mr. LOWE. I now move that the report be recommitted to the committee in which it originated.

The motion was agreed to, and the report was recommitted.

EXEMPTION OF REAL AND PERSONAL ESTATE.

On motion of Mr. CLEGHORN, the Convention resolved itself into committee of the Whole (Mr. FOSTER in the Chair) upon the report of the committee upon Exemption of Real and Personal Estate, and the rights of Married Women. [For report, see proceedings of July 24th.]

The report was read by sections for amendment.

SECTION 1. The personal property of every resident of this State, to consist of such property as shall be designated by law, shall be exempted to the amount of not less than two hundred and fifty ($250) dollars from sale on execution or other final process of any court issued for the collection of any debt contracted after the adoption of this Constitution.

Mr. MORGAN. I move that the first section be stricken out, and if that motion is carried, I shall move that every succeeding section be stricken out, and for the reason that this is wholly a matter of legislation. All there is in this section, for which any provision is needed, is provided for in section seventeenth of the Bill of Rights which says that "the right of the debtor to enjoy the "necessary comforts of life shall be recog- "nized by wholesome exemption laws." That is a general provision covering the whole ground. The remaining part of this report is mere legislation. I can see no reason why we should go into specific legislation upon this subject. The third and fourth sections are also matters of legislation, and there already exists in this Territory legislation upon the subject of the rights of married women. It does seem to me that we ought not to enter upon matters of legislation of this kind, in this place.

Mr. BOLLES. I shall be under the necessity of voting against this motion, and against the striking out of any other section of this report. As an individual I am decidedly in favor of incorporating into the Constitution a specific exemption, and make it the fundamental law of the land that a certain amount of real and personal property shall be exempt from such execution. Such being my sentiments, and the sentiments, I believe, of that portion of the community that is benefitted by exemption laws, I shall vote for retaining this section and all the sections of this report. If there is any amendment which can give it more force and more sacredness, I shall vote for such amendment.

Mr. BALCOMBE. I am in favor of striking out every section of this report, not because I am not in favor of an homestead exemption law, for I am most sincerely in favor of it, and were I a member of the first Legislature under the State government, I should insist upon such a law, and perhaps for a more liberal one than any member in this Convention. But I do not consider it proper for us, more particularly under present circumstances, to place a full and perfect exemption law in the Constitution. If it is left to the first Legislature, I believe the people

will see to it that senators and representatives are elected who will frame a law of that character. We should not encumber the Constitution with full and perfect laws upon any of these subjects. I am equally opposed to the insertion of a banking law in the Constitution. Let the people elect a Legislature with special reference to those matters.

Mr. SMITH. I regard this section merely as a basis of future legislation. I think the people demand that something specific shall be inserted here. I hope the motion to strike out will not prevail.

Mr. BALCOMBE. There is in the Bill of Rights a clause which covers this whole ground. It provides that the right of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome exemption laws. That gives to the Legislature full power and authority to pass such laws, as in their judgment they think proper and which they think the people demand; and there is where I think this matter should be left. But I was very glad to hear the committee report upon this subject and bring it before the Convention, that it might be freely discussed. I hope gentleman will not vote for the retention of this clause simply because they are in favor of such a law. I, too, am in favor of it, and I suppose there is not a member of the Convention more so, but I shall vote to strike it out upon the ground of the inexpediency of inserting a full and complete exemption law in the Constitution.

Mr. COLBURN. I agree with the gentleman from Winona. While I am in favor of an exemption law, and while I believe the members of this Convention, and nearly every citizen of the Territory, are in favor of it, at the same time I believe it is not proper to incorporate a law in detail, like this, into our Constitution. It is agreed upon all hands that the people of the Territory demand such a law, and if so, the Legislature will be sure to pass one. What the people demand, the Legislature will not refuse to grant. Such being the universal sentiment of the community, there is no risk in leaving the details of that law to the Legislature. I hope therefore that the section will be stricken out.

Mr. BATES. I do not think a gentleman in this Convention is opposed to a homestead exemption law. On the contrary I believe that every member, as well as the people, are strongly in favor of it. Yet I hope that this entire article will be stricken out, from the fact that I believe the proper place for it is in the Bill of Rights; and in advocating that, I may say, I am following in the course pursued by other Constitutional Conventions. In looking over the Constutions of other States, I have not found a single instance where there is a separate article upon this subject, but I did find that the Constitutions of various States have articles in the Bill of Rights similar to the one we have. I believe that is the place for it, and therefore I shall vote for striking it out here.

Mr. SMITH. I would refer the gentleman to the Constitution of Michigan where he will find a homestead exemption law in detail. And why, if the people are so much in favor of such a law, should we not incorporate something of this kind, as the basis of future legislation? The insertion of this article would not preclude legislation.

Mr. NORTH. I am decidenly in favor of restricting ourselves, in the formation of a Constitution, as much as possible, to a declaration of general principles and of fixing the rights of the people of this State by general principles, without going into the details of legislation. Still there is something in this article which I should not like to see stricken out, because the subject of the last section is not provided for in the Bill of Rights. While gentlemen advocate the policy and propriety of striking out the whole report, I should like to see something like this last article retained. It relates to the property of married women. As to the remaining portion of the report, I am in favor of striking it out, as the subject embraced in it is already sufficiently provided for in the Bill of Rights already reported. I hope we shall not go into legislation upon this subject as minutely as there seems to be a disposition to do upon the part of the committee. I think we should find our labors curtailed and our Constitution improved if we guard that point.

Mr. PECKHAM. I differed somewhat with my associates upon the committee in regard to this report, although I signed it, I did so more particularly to have the subject brought before the Convention. I suppose that the article in the Bill of Rights covered the whole

ground, and is sufficient for the action of future Legislatures, and that the matter would more properly come before such a body, than before a Constitutional Convention.

Mr. BOLLES. If we go on in this way with the reports of the different committees, it will be pretty conclusively demonstrated that we made an egregious error in appointing the committees at all. If we are going to take the report of the committee on the Preamble and Bill of Rights as the Constitution, what was the necessity of having any other committees? They are of no use at all. But I view this matter in a different light from what others do. I look upon a Bill of Rights as incorporated in a Constitution, merely as a recapitulation of fundamental principles and nothing more. But I do consider it perfectly legitimate and proper to incorporate into a Constitution certain fundamental ideas, and then make them so specific that there can be no misconception as to their meaning—no two ways in which they should be construed. For instance, in regard to the subject under consideration, the Michigan Constitution exempts personal property to an amount not less than five hundred dollars, and a homestead of not exceeding forty acres of land, &c., going specifically into the details of the matter. That is what I want here, and it is all I ask. Make such a general exemption here, and then leave it to the Legislature to say what it shall consist of in detail.

One word as to this idea that we must take the thunder out of the Constitution, which will be presented by the body sitting in the other end of the capitol. I am in favor of it, but may differ from others as to the best mode of doing it. I am in favor of incorporating into the Constitution every popular sentiment of the day, and of taking it before the people and urging its adoption most ardently, claiming it, as emphatically the Constitution of the Republican party. I shall in my future course act upon that principle, and thus take all the thunder out of the other Constitution, by adopting and incorporating into ours all popular views of the day.

In reference to the Bill of Rights, I wish to say that I hope there will be no definite action upon it, until I shall have had an opportunity to present the substitute to which I referred before.

Mr. MANTOR. I am in favor of a liberal homestead exemption law, to protect families, friends, and the entire community, but I am opposed to the adoption of the report of this committee. Now, sir, if we are to take up every popular sentiment of the day which we may find in the report of any committee, and insert them into our Constitution, we should make an instrument which the people could not understand. I am opposed to this section from the fact that it lays down a specific amount of exemption. My views of the amount of exemption would probably differ very much from a majority of the members upon this floor. The gentleman from Winona, (Mr. BALCOMBE) stated that he was in favor of the most liberal laws in that respect, yet I presume I would go further than any delegate here. But, sir, if we are going to incorporate this into our Constitution, we had better follow out the plan indicated by one gentleman who has spoken, and take up all the *isms* of the day, and give them a place here. But it looks to me ridiculous to embody in our Constitution anything infringing on the legislative department, and for that reason I shall oppose this section. There is also in the Bill of Right ssufficient to guarantee to every man a sufficient exemption. It is so worded that the Legislature can act upon the subject with a due regard to the rights and wishes of the people.

The question was then taken, and the section was stricken out.

Mr. COLBURN. I move to strike out the second section.

The motion was agreed to.

Mr. BOLLES. I move that the committee rise.

The motion was not agreed to.

Mr. HARDING. I move to strike out the third section.

The motion was agreed to.

Mr. STANNARD. To save the time of the committee, I move that the committee rise and report back the report to the Convention with a recommendation that it be indefinitely postponed.

The motion was agreed to.

The committee accordingly rose, and the chairman reported back the report, with a recommendation of the Committee that the report be indefinitely postponed.

The question being on agreeing with the recommendation of the committee, Mr. LYLE called for the yeas and nays.

The yeas and nays were ordered.

The roll was then called, and the question was decided in the affirmative, yeas 39, nays 9, as follows:

Yeas—Messrs. Aldrich, Anderson, Ayer, Balcombe, Baldwin, Bates, Bartholomew, Billings, Cleghorn, Colburn, Coe, Cederstam, Coombs, Dooley, Dickerson, Folsom, Galbraith, Gerrish, Hayden, Harding, Hudson, Hanson, Holley, Lowe, Mantor, Morgan, Mills, Murphy, North, Putnam, Robbins, Russell, Stannard, Secombe, Walker, Winell, Watson, and Wilson.

Nays—Messrs. Bolles, Foster, King, Kemp, Lyle, McClure, Phelps, Smith and Vaughn.

And then on motion of Mr. HARDING, (at twelve o'clock and thirty minutes,) the Convention adjourned until two o'clock.

AFTERNOON SESSION.

The Convention met at two o'clock.

Mr. MILLS offered the following resolution:

"*Resolved*, That the object of a Constitution is to organize a government, prescribing the nature and extent of the powers of the several departments thereof; and that to engraft any legislative enactment therein would be anti-Republican. Further, that a Bill of Rights should only be declaratory of general fundamental principles."

Mr. HARDING. I am not prepared to go for that resolution at the present time, nor do I as yet see the propriety of passing it. It is barely possible, that there might be different views of what might be termed, legislative acts. There may be provisions that we may find necessary to incorporate into the Bill of Rights, which some might consider legislative in their nature, while others would think differently. I am of opinion that the adoption of such a resolution would not be beneficial at this time.

The resolution was then laid over under the rule.

BILL OF RIGHTS.

Mr. BATES. I move that the Convention now proceed to the third reading of the report of the committee on the Preamble and Bill of Rights.

Mr. NORTH, I would inquire if it is not yet in committee of the Whole.

The PRESIDENT. It is not. It has been reported back, and was laid upon the table. It has not yet been engrossed, nor have the amendments of the committee all been acted on, and it would require a two-thirds vote to put it upon its third reading before its engrossment.

Mr. BATES. I withdraw my motion, and move that it be taken from the table, and that we proceed to act upon the amendments recommended by the committee of the Whole.

Mr. WILSON. I should like to see the bill disposed of to-day, but the chairman of the committee which reported it is absent now on account of sickness in his family, and has been absent all the time during its consideration. He will be here to-day, and I think we had better leave it until he returns.

The PRESIDENT. The Chair would suggest the propriety of not finally passing any of these propositions without having them engrossed. It would be rather a difficult matter for the Secretary to read the report in its present shape, with its various amendments so as to make it understood.

Mr. NORTH. I am in favor of its being engrossed, but before that is done I wish to say that there is a part of the report which we recommitted this morning, which I should like to see added to the Bill of Rights. It is the section in regard to the rights of married women, and if the bill is again taken up I shall move such an amendment.

Mr. STANNARD. Have the amendments recommended by the committee of the Whole been yet concurred in?

The PRESIDENT. They have not.

Mr. STANNARD. Then of course it must be taken up and the amendments acted on.

The motion was agreed to, and the bill was again before the Convention.

Mr. BOLLES. Mr. PRESIDENT. I propose a substitute for the whole report. I do so out of no feeling of disrespect for the opinions of the gentleman who got up this report, but simply from the conviction that the investigations were insufficient for want of time on the part of the standing committee.

The substitute was read by the Secretary. It is as follows:

PREAMBLE. We the people of the State of Minnesota, feeling that the blessings of free government can only be maintained by a firm adherence to justice and strict virtue, and being desirous to

perpetuate the blessings of civil and religious liberty to our posterity, do ordain and establish this Constitution.

ARTICLE I—DECLARATION OF RIGHTS.

SECTION. 1. All men are born equally free and independent, and have certain inalienable rights, among which are life, liberty and the pursuit of happiness. To secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

SEC. 2. There shall be neither slavery nor involuntary servitude in the State, except for the punishment of crimes, of which the party shall have been duly convicted.

SEC. 3. The liberty of the press shall forever remain inviolate, and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of those rights.

SEC. 4. The right of the people to assemble to consult for the common good, and to petition the government, or any department thereof, shall never be abridged.

SEC. 5. The right of trial by jury shall forever remain inviolate.

SEC. 6. Liberal laws regulating capital punishment should be enacted, but no laws prohibiting such punishment shall be passed.

SEC. 7. The privilege of the writ of *habeas corpus* shall not be suspended, except in case of insurrection.

SEC. 8. All persons are entitled to certain remedy in law, for all injuries or wrongs which they may sustain in their person, property or character.

SEC. 9. Treason against the State shall consist only in bringing war against the same, or in adhering to its enemies, giving them aid and comfort.

SEC. 10. The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches or seizures, shall not be violated.

SEC. 11. No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts, shall be passed, and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 12. No private property shall be taken for public use, without just compensation therefor.

SEC. 13. All lands within this State are declared allodial, and feudal tenures are prohibited.

SEC. 14. No distinction shall be made by law between resident aliens and citizens, in reference to the possession, enjoyment or descent of property.

SEC. 15. No imprisonment for debt shall be allowed.

SEC. 16. The right of the debtor to enjoy the comforts of life shall be recognized by liberal and wholesome exemption laws.

SEC. 17. The right of every man to worship God according to the dictates of his own conscience shall never be infringed, nor shall any man be compelled to attend, erect, or support any place of public worship, or to maintain any religious miniatry against his consent, nor shall the Legislature appropriate any public funds for the support of religious or theological institutions.

SEC. 18. No religious test or property qualification shall ever be required for civil privileges.

SEC. 19. The military shall be in subjection to the civil power.

SEC. 20. Writs of error shall never be prohibited by legal enactments.

SEC. 21. Lotteries shall not be authorized by law.

SEC. 22. The Legislature shall pass no laws licensing the traffic in ardent spirits, or intoxicating liquors.

SEC. 23. Dueling shall not be allowed in the State, and the Legislature is required to pass good and wholesome laws prohibiting the same.

SEC. 24. The criminal code shall be founded upon principles of justice and reformation.

SEC. 25. The people shall have the right to bear arms in defense of themselves and the State.

Mr. NORTH. Mr. PRESIDENT: There are some things in that substitute that I like, and I don't know but I should like most of it. I move that it lie on the table and be printed, that we may have an opportunity of examining it more at leisure.

The motion was agreed to.

So the substitute was ordered to be printed, and the question recurred on the amendments recommended by the committee of the Whole.

Mr. BOLLES. I move that the report of the standing committee be laid on the table.

Mr. CLEGHORN. I move that the bill before the Convention together with the amendments, be printed.

The PRESIDENT. The motion to lay on the table takes precedence.

The motion to lay on the table was rejected.

Mr. CLEGHORN. I now renew my motion to have the bill and amendments printed.

Mr. NORTH. I was going to move an additional clause—if I have the permission of the gentleman—in regard to the rights of married women. I will move that the following section be added:

"SEC. — Married women shall have the right to hold and convey real and personal property, in their own right, and separately from their husbands."

The PRESIDENT. The amendment is not properly in order, until the amendments recommended by the committee of the Whole

shall be disposed of, no other amendment will be in order.

Mr. STANNARD. I move to re-commit the report of the standing committee with the amendments in committee of the Whole, together with the substitute, and the resolutions submitted this afternoon upon the same subject, to the standing committee on the Bill of Rights.

The PRESIDENT. The substitute has been ordered to lie on the table to be printed. A motion to take it up would be in order.

Mr. SMITH. I move to take the substitute from the table.

Mr. BOLLES. I hope that will not prevail. I hope the paper will be allowed to go to the printing office and be printed, that we may all look at it and compare it with other propositions, and decide between them as to what we want.

Mr. HAYDEN. Mr. PRESIDENT: It does appear to me that we have a committee competent to their task, and if this substitute shall be referred to them, and if there are good ideas in it—and I confess there are some that I like—I think they are abundantly competent to put them into the article. It looks to me like unnecessary work to print. There has been one report printed, and to print any more would be out of the usual course. I think it would be far better to refer the whole to the standing committee, and let them investigate it. If there are valuable ideas suggested, I trust they will incorporate them.

Mr. STANNARD. I object to this mode of forming a Constitution. We have spent considerable time on the Bill of Rights, and it is only out of courtesy that I should feel disposed to refer the substitute. Although the substitute might be even better than the original report, I would not vote for it without first extending this courtesy to the committee, which is usually extended by deliberative bodies. The committee have prepared their report, no doubt, with great care and labor, and here we have a substitute for it which it is proposed to print. It is out of the line of parliamentary proceeding to order a substitute to be printed. It would be discourteous toward the committee, unless the original and amendments were also printed. I have all confidence in the standing committee on the Bill of Rights, and instead of having so much printing done, and taking up so much time, I should prefer that the whole subject were simply referred again.

Mr. SECOMBE. I am opposed to all reference of the matter at present. We have had a clean report from the standing committee, and that report has been considered in committee of the Whole. But no attention has been given by the Convention to the amendments recommended by the committee of the Whole. We have no assurance as to whether the Convention might not now be satisfied with the present shape of the report. I think it better first to ascertain whether the Convention will accept and adopt the amendments of the committee of the Whole. This motion seems to be taking the matter again out of our hands. Some gentlemen say they have not been present when this article has been before us. To be sure, a good many have taken it upon themselves to go home about their own business; but I do not like to see this used as an argument and a reason why we should go over this matter again. It has been now two or three days since this report came back from the committee of the Whole, and it seems to me nothing but courtesy that we should act upon their recommendations; and if we find we are not satisfied, then it will be time enough to make another reference. Till then, I am opposed to all reference of the matter.

The PRESIDENT. The first question is on the motion to print the article with the amendments.

Mr. WILSON. Would it not be well to print the amendments in the bill?

The PRESIDENT. The amendments have not been made yet.

Mr. WILSON. They will be printed, as recommended by the committee of the Whole.

Mr. NORTH. I hope this will not pass. It would be folly to send a paper to be printed in that condition. I think, myself, it would be as well not to have it printed at all.

The PRESIDENT. The Chair would suggest, that it would be almost impossible for the printer to ferret out the amendments.

Mr. CLEGHORN. I withdraw the motion.

The question recurring on Mr. SMITH'S motion, it was agreed to, and the substitute was again before the Convention.

Mr. HAYDEN. Mr. PRESIDENT, I move

that the report and amendments, with the substitute, be re-committed to the standing committee.

Mr. SECOMBE. The course indicated by this motion will require several days before we can get this matter before us again. After the report shall be again made by the standing committee, it has then to be read the first and second time and printed; then it has to be considered in committee of the whole; then, on a subsequent day, it has to be brought before this body. In other words, it is taking the back track for about a week, in order to go again over the very same ground we have been over before. I wish, Mr. PRESIDENT, to get along as fast as possible with this matter. These amendments have been long enough before the Convention, and new amendments can be offered. I hope gentlemen will not insist on going back and being delayed so long.

Mr. PERKINS. As I look at it, this delay is for the especial benefit of those who saw fit to leave their places here and go home about their own business. The Convention refused last week to adjourn over till Monday, for the sake of enabling these gentleman to retire. Nevertheless, they saw fit to go, and I understand that some, who were left here for the sake of aiding in the movement, when their names were called, refused to answer, for the sake of putting off the business of the Convention.

Mr. HAYDEN (interrupting.) I rise to a point of order. I think the gentleman is not on the subject.

The PRESIDENT. [Mr. SECOMBE in the Chair.] The Chair is of opinion, that the gentleman from Rice county is on the subject.

Mr. PERKINS. I understand that there was a plan contrived to have this thing laid over, so as to give these gentlemen a chance to come back and take part. I do not know that this is correct; but it seems to me that the movement to-day must be for the special benefit of those who left. Inasmuch, then, as this report has been fully considered in committee of the Whole, and the whole ground has been traveled over, it seems to me, it is a matter of sheer justice to those members who have remained here, that this delay should not be permitted. I hope the majority of this Convention will not delay; but that the business in hand may be disposed of, and we may take hold of other matter, so that we may not be obliged to spend six months in framing a Constitution, when three or four weeks would be sufficient.

Mr. BATES. Mr. PRESIDENT: I think the gentleman from Rice county is under a mistake. I am one of those who have been away; and I was the one who made the motion this afternoon that the report of the committee on the Preamble and Bill of Rights be taken up; and I desire to proceed immediately to act upon the amendments recommended by the committee of the Whole. I was in favor of going forward with business, and am so still. I was opposed to the substitute, and opposed to the order to print. I am now in favor of going forward with the consideration of the amendments.

Mr. STANNARD. I feel called upon to explain the reason of my standing outside the bar yesterday—as the gentleman alluded to me—to break a quorum. I did it, sir, on the ground that I believe the majority ought to rule. There were but twenty-nine members present, and I certainly thought it wrong to proceed. I would rather the whole one hundred and eight were here than the fifty-nine,—much rather the fifty-nine than the twenty-two or twenty-three who then remained in their seats. I am ready to stand by all that I did.

Mr. WILSON. Mr. PRESIDENT: I have twice suggested a postponement of the matter of the report of this committee—inasmuch as we had other matter before us—until the Chairman of the committee should be present. That gentleman, however, never spoke to me about putting off action. He is absent because his child is sick, as I understand—absent necessarily; and I thought it would be proper to leave it till he should be present; for upon this, as upon every subject, I should be very glad to have his counsel and assistance. I shall certainly vote for giving the report again to the committee, or for any delay of its consideration under the circumstances.

Mr. BOLLES. I hope the motion to recommit will prevail. I happen to know, that the standing committee did not take the time in getting up their report which they would have taken, had they not supposed, that the

report should be presented very early in our deliberations here. Consequently, they hastened to get through with it, expecting the Convention to do with it as they saw fit. They did not give the subject the attention it deserved, as I have understood from themselves; and I believe, if they all understood how the mattter now stands, they would be exceedingly gratified if the Convention would allow it to go back to them. It seems to me such a course is necessary to the perfection of the work.

I for one, would not like to see the Constitution go out with such imperfections that we would not like to look upon it hereafter. I want a Constitution that the State shall be proud of—one that will not need revising for a hundred years to come. And to accomplish such a work, I hope we shall take all the time that may be necessary. I am one of those really needing my own time at home, but I am not willing to go away from this place and leave our work half done.

Mr. HAYDEN. I made the motion to recommit for the express purpose of expediting business. That report was made, and, in my opinion, weak as it may be, it is a very good Bill of Rights. I do not pretend to say but that it needs some amendments, but we see it lumbered up with almost innumerable amendments; and at this time a substitute is offered for the whole bill, a vote taken to lay it upon the table and have it printed. That will consume some time. It seems to me that the only correct course for us to pursue is to recommit the whole matter.

In regard to the assertion that many of us were absent when the report was acted upon, and that we therefore complain of forcing action upon it now, I will say that I have made no complaint, though I was absent during its consideration. I have had some little legislative experience, and I am willing that my course should be properly presented. During the last six months I have spent eighty-nine days in this place in a legislative capacity, and in all that time, I believe that the roll has been called but once when I have failed to respond to my name. It is true I absented myself from the Convention a part of the last week. I went home on account of sickness, and nothing but the peculiar circumstances in which this Convention is placed would have induced me to return now. I do not complain in the least of amendments having been made during my absence. I am glad the business has been done and I presume it has been well done. But I think now, at this stage and position of the report, that the best possible, the most cautious, and the straight forward course, is to recommit it, that the committee may have a fair chance to compare the substitute with the report. If they find the substitute better than the original I presume they will adopt it.

Mr. BALCOMBE. I am very sorry to see so much of the time of the Convention occupied in this manner, and apparently for no earthly good that any one can percieve. The substitute offered by the gentleman from Rice County (Mr. BOLLES) contains but one or two sections, and one or two subjects, differing from the report made by the committee. Now is it necessary, in order that we may get those additions into the Bill of Rights, that we should take under consideration the whole substitute, after having spent two or three days upon the report? The proper course for the gentleman to have taken to have his new ideas included in the Bill of Rights would have been to offer them by way of amendment, that he could have done after the committee of the Whole had reported back the report to the Convention with the amendments. He could have got them inserted just as well, and even better, by offering them as amemendments, than by way of substitute for the whole bill. If he only wanted to change the phraseology—and I perceive that he has changed the language of the report but very little in the substitute he has offered—why did he not offer amendments to accomplish that purpose? and not encumber the journals with a long substitute for the whole, and occupy the time of the Convention with it?

Now, sir, it is not, as was taken for granted by another gentleman from Rice County, that the reason for this movement is that certain gentlemen were absent when the report was considered in committee of the Whole. There is something back of all that, and I am sorry to see it, and I hope I shall not see it in this Convention again. It is this matter of little jealousies and little piques, alleging that this committee and that committee have

infringed upon the rights of other committees. I think the time of this Convention should not be occupied with such trivial matters. Committees were simply appointed to present to the Convention a frame work of a Constitution, which we are afterwards to side up, put on a cornice, a roof, &c., without reference to its origin from any committee whatever. That is a matter of minor importance in this work, and they are worthy of no consideration in the deliberations of this body.

The gentleman from Rice County has left out from his substitute certain sections which were claimed here, the other day, should have been reported from some other committee—I do not now recollect what they were and I care not. It is a petty jealousy which ought not to be recognized. Those sections are in their proper place. Just such sections are contained in the Bill of Rights of every Constitution which has a Bill of Rights, and I care not from what committee they come. They are sections calculated to protect the rights of the people and they belong where they are, if anywhere.

Now what difference does it make whether one committee or another reported them? It is of no importance. And now after the report has been considered in committee of the Whole for two or three days and reported back to the Convention with certain amendments, we should go to work and adopt or reject those amendments, and then if any gentleman wishes to add an additional section, let him move to add it, and if we want to change the phraseology, we can do it. If there is any section there which does not belong to the Bill of Rights, it will be in order to move to strike it out. We should proceed in the straight forward, manly and parliamentary way.

I make these remarks not because I have any personal feelings in the matter. I have not. I am willing to sit here six weeks if it is necessary to do so, but I desire that we should go directly forward and do our duty, be the time longer or shorter. I do not want to see the time of the Convention taken up in this trivial, unusual and undignified manner.

Mr. COLBURN. I hope the motion will not prevail. I believe with the gentleman who last spoke, that it is our duty, as a Convention, to go directly to the consideration of the recommendation of the committee of the Whole. I can see nothing gained by referring the report back to the committee. If it is so referred and they make another report, we shall have to go over the whole ground again. It must be again considered in committee of the Whole section by section, and I venture the prediction that there would be quite as many amendments offered the next time as there have been this. It is not to be supposed that the report of a committee on a subject of this kind is going to meet the views of every member; and hence amendments will be offered again and again, and when we get through, it is not probable that we shall be any better off than we are now. My opinion therefore is, that we had better go on and consider the amendments. We shall save time and money by so doing.

As regards the matter of the Chairman of the committee being absent, I must say that while I claim to have some regard to the exercise of courtesy towards members, he has no claim to courtesy in this respect. A gentleman says he is absent on account of sickness in his family. I really very much doubt whether that is the reason why he is not in this Convention now. He told me some four days before he left, that he should leave and go home on that day. He told other gentlemen that he was going home to address a public meeting. He said nothing about sickness in his family.

Again, in reference to his having considered this matter more fully than any other member. I doubt whether he gave that consideration to the Bill of Rights which was given to it in committee of the Whole. He certainly drew it up in one evening—the very evening the committee was appointed—and presented it to the Convention the next day. He did not have time to give to it more consideration than other members have given to it, and I very much doubt whether he would make any such claim. From the very fact that he has been gone so long I do not consider that it is due to him, that this Convention should delay on his account.

Mr. BALCOMBE. I would not have it understood that I am in favor of pressing the Convention to vote to-day upon the various committees or upon the gentleman's substi-

tute, but my idea is that if we want to await the return of the Chairman of the committee, or if we want more time to consider the subject, the proper way would be to lay the report upon the table, where we can get at it at any time. It is the re-committal to the committee to which I am so much opposed, thereby compelling us to go over the whole matter again in the committee of the Whole upon the new report which that committee might make. I am opposed, too, to sending this substitute to the office to be printed, thereby incurring still further expense. Our expenses will be sufficient without incurring any that are unnecessary.

I move that the report together with the substitute be laid upon the table.

Mr. McCLURE. I suppose all debate is cut off by that motion. I see some gentlemen here who always violate the rule by making two or three speeches, and then cut off all debate by some motion.

Mr. BALCOMBE. I withdraw my motion if the gentleman wishes to speak.

Mr. McCLURE. I do not wish to take up the time of the Convention.

Mr. NORTH. I wish simply to say that if we had gone directly to work after we had reconsidered the motion to print, we should have got half through the bill before this time. I am decidedly opposed to spending any more time in discussing the merits of one another here, or the complaints as to the manner in which the business of the Convention has been done. We had better proceed to business at once.

I hope the motion to re-commit will not prevail, and if we are not to have the substitute printed, I hope we shall proceed section by section through the bill, and pass upon it to-day and have something finished.

Mr. SECOMBE. I demand the yeas and nays upon the motion to re-commit.

The yeas and nays were ordered.

The roll was then called, and it was decided in the negative, yeas 8, nays 41, as follows:

Yeas—Messrs. Aldrich, Bolles, Folsom, Hayden, Stannard, Smith, Watson and Wilson.—8.

Nays.—Messrs. Anderson, Ayer, Balcombe, Baldwin, Bates, Bartholomew, Butler, Cleghorn, Colburn, Coe, Cederstam, Coombs, Davis, Duley, Dickerson, Eschlie, Galbraith, Gerrish, Hall, Harding, Hudson, Hanson, Holley, King, Kemp, Lyle, Mantor, McCann, McClure, Morgan, North, Phelps, Perkins, Putnam, Peckham, Robbins, Russell, Secombe, Vaughn, Walker, Winell, and Sheldon.—41.

On motion of Mr. NORTH, the Convention then proceeded to the consideration of the amendments to the report.

The first question being on the substitute offered by Mr. BOLLES.

On motion of Mr. NORTH, the same was laid upon the table.

The amendments reported by the committee of the whole were then taken up and considered as follows:

First amendment, section three, line two, insert the word "such," so that the clause shall read,—

"Every person may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of such right."

The amendment was concurred in.

Third amendment, section two, insert after the word "libel" the words "or slander" and after the word "libellous" the words "or slanderous," so that the clause shall read,—

"In all criminal prosecutions or indictments for libel or slander the truth may he given in evidence; and if it shall appear to the jury that the matter charged as libellous or slanderous be true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact."

The amendment was concurred in.

Third amendment, section two, strike out the words "the jury shall have the right to "determine the law and the fact" and insert: "in all indictments for libel, the jury after "having received the direction of the court, "shall have the right, to determine at their "discretion, the law and the fact."

Mr. SECOMBE. I hope that amendment will not be adopted. I do not understand that it changes the effect of the provision as it now stands. As it now stands, under the common law, the jury are bound by the ruling charge of the judge, and if they find a verdict against that ruling or charge, the verdict could be properly set aside. If I understand the object of the provision as inserted here, it is to take that power from the judge and give it to the jury, so that when they have heard the facts in the case—and they will hear, of course, for their enlightenment, and the law from both sides, and in addition to

that, the law from the judge,—then they are made the judges, not only of the facts in the case, but of the law. Now I do not understand how the provision of the amendment alters it. If it does alter it, it destroys the whole effect which is intended to be obtained.

There is another difference, it makes a distinction between libel and slander. And if that was the intention of the mover of the amendment I should still be oposed to it, for I cannot consent to have libel, or written slander, receive a benefit which is denied to spoken slander. Slander when spoken has but a small circle in which it moves, but when it is written or printed it circulates not only more widely, but through a longer lapse of time, and it certainly should have no privilege over slander. But I suppose that was a discrepancy which arose from the fact that the amendment which has been adopted, was then under discussion. I am opposed to the amendment.

Mr. WILSON. I think, Mr. PRESIDENT, that the amendment contains about the idea we wish to incorporate. There are two theories upon the subject,—an old one, revered by many in our midst, that the court shall determine the law—which is the case in civil actions, and in most cases in criminal actions. The other is that the jury shall determine the law as well as the fact. I am in favor of the latter with a modification. There is not a man in the room who has sat upon a jury in a criminal case but has noticed the fact, that juries are generally composed of a class of men who do not see the point as quickly as might be, and that after a long and intricate case has been gone through with, a little explanation makes the point clear to them. I wish to make it the duty of the judge to state to the jury what the law is. Here is counsel on the one side, and counsel on the other. We do know that counsel, honest as they may be, when engaged in any case, naturally will lean towards their own side, and they try to make that side the stronger. How frequently do we hear our counsel declare—and especially will that be the case when the jury are made judges of the law—that the law is so and so, while the other declares that such is not the fact. Now the judge, sitting upon the bench, is supposed to know what the law is, and he usually does know. The judge is not interested, he is not feed upon either side; nor are his prejudices and feelings enlisted on either side. He sits as a moderator upon both parties, and he states to the jury what the law is. After that time the jury are left at perfect freedom to decide whether the law is interpreted by the judges or not. All that is proposed by this amendment is that the judge shall state the law to the jury, for the purpose of enlightening them—which I think is necessary in almost every case. After he has done so, it is at their discretion to decide whichever way they please. It is not the same provision that is contained in the original section, nor does it destroy any principle contained in that section.

Mr. NORTH. I differ with the gentleman who has just taken his seat, and I hope the amendment will not be concurred in, for this reason: if it is necessary at all to legislate upon the duties of the judge and jury, and especially to change the law either in civil or criminal cases, I do not think that this is the place to do it. We simply set forth the rights and powers of juries in this case, and that is all we need to do. I suppose that it is understood that the power of the judge to charge the jury in cases of slander, as well as in all other cases, is already abundantly secured. But even if it is necessary to have a special law to that effect, it is better to have it elsewhere than in the Bill of Rights.

Mr. MCCLURE. I hope the amendment will be concurred in. I was opposed to this amendment when it was first suggested by the gentlemen from Winona, (Mr. WILSON.) I do not understand that the original report of the committee prohibited the judge from instructing the jury upon any point of law which either party might require. Hence I should have been entirely opposed to any amendment upon that ground, believing as I do, that either party may ask the court to charge the jury in regard to it. The court may give it, and the jury give what weight they choose to it. But I am in favor of the amendment now, from the fact that it will have an important bearing to show what the sense of this Convention is upon another point—that is upon the amendment which has just been adopted—offered by the gentleman from St. Anthony, (Mr. SECOMBE) inserting the words "slander" and "slanderous"

whereby we said that an indictment under the laws of the land may be sustained for verbal slander. Now it seems to me that this amendment of the gentleman from Winona, will show, when this clause of the Constitution goes out to the people, that it was not the intention of this Convention to say any such thing, for he confines his amendment to the term "libel." It seems to me that it will show conclusively that this Convention never did intend to say that an indictment could be found for verbal slander. I am in favor of it upon that ground, in order that it may place us right upon that subject; for so far as I am concerned, I do not wish to have it understood that I would advocate and vote for this clruse without the term "slander" in it, for I do not understand that, according to the laws of this country, an indictment can be found against an individual for verbal slander.

Mr. NORTH. I am still opposed to the amendment, and for the very reason just assigned. I am decidedly opposed to this Convention instituting a distinction which has not been heretofore instituted, and a distinction which, to my mind, has no foundation in reason or philosophy—a distinction between a slander uttered by the mouth and that uttered by the pen. The idea of making an act a penal offence and indictable, when done in one way, and not when done in another, is nonsense. I do not know why it is not just as wrong for me to accuse my neighbor of theft or robbery, and circulate that with my lips, whispering it here and there through the community wherever I could get an opportunity, and why it is not as common to produce injurious results in that manner, as it is to sit down and write that same thing and publish it through the newspapers. I do not know why the effect is not the same. I do not know why the thing itself is not the same, and it seems to me that the law authorities have so regarded it. I do not see any reason why this Convention should make any distinction in that particular.

Mr. SECOMBE. I feel called upon to make a few further remarks upon this subject. I supposed after I read the authority upon this subject the other day, while we were in committee of the Whole, that no member of this Convention would think it an extraordinary thing that this Convention should recognize the principles of the American common law as laid down in every elementary treatise published in this country. When I offered, in the committee of the Whole, an amendment to insert the words "slander," and "slanderous," in connection with "libel," and "libelous." I never supposed any gentleman would raise that question. I did not have any doubt in my own mind, but after a gentleman did raise the question, I immediately began to look about to see if I had made such an egregious blunder as that. I found that a majority of the legal members of this Convention differed with me upon that point, and I took the pains to consult the authorities upon the subject, and I laid my hand on WHARTON'S American common law, and read from it the other day. I now propose to read the same sections again.

On pages five hundred and thirty-four and five of that work, I find the following:

"An indictment will lie for all words spoken of another which impute to him the commission of some crime punishable by law, such as high treason, murder, or other felony (whether by statute or at common law) forgery, perjury, subornation of perjury, and other misdemeanors."

"An indictment will lie for all words spoken of another which will have the effect of excluding him from society, as for instance to charge him with having an infectious disease, such as leprosy, the venereal disease, the itch or the like. But charging him with having had a contagious disease is not actionable, for, as this relates to time past, it is no reason why his society should be avoided at present."

On page five hundred and thirty-six the limitation of this doctrine is found:

"No indictment however will lie for words not reduced to writing unless they be seditious, blasphemous, grossly immoral, or uttered to a magistrate in the execution of his office, or uttered as a challenge to fight a duel, or with an intention to provoke the other party to send a challenge."

Now it seems to me, there is authority which this Convention need not feel ashamed to recognize. If this amendment prevails, after the recommendation of the committee of the Whole shall have been passed upon, I shall move an additional amendment to this very section, as it will stand amended, to insert the word "slander," in this very place.

A word further in regard to the interpretation given by the gentleman from Winona to

the object of this provision, and that is that the judge might act as the third counsel in the case, that he might have the privilege of arguing to the jury what the law was, and that they then should decide it according to their own discretion. I would be the last one to inflict upon the judge the duty of stating the law to the jury with the understanding that it was mere gratuitous advice upon his part. If the judge is to decide the law, let it be so understood, and if the jury are to decide the law, let that be equally well understood, and then let the judge use his discretion about charging the jury.

Mr. MORGAN. I hope the amendment will not prevail, and if it does not, I shall move to strike out all after the word "acquitted," in this section, for the purpose of inserting the general rule by adding thereto the words "in all criminal cases the jury shall have the right to determine the law and fact." As the section now stands it is unnecessary and partial, for it only applies to cases of libel and slander. It is a well understood rule of law that in all cases the jury are obliged to determine the law and the fact. That has always been admitted. No jury can ever determine and find a verdict in a criminal case, without, to some extent, determining the law. A man, for instance, is charged with burglary, and the first question to determine is whether the facts constitute, in law, burglary; or whether it is petty larceny, or some other offense. It is in fact, the common law rule, recognized not only in this country but in England, that the jury must in every criminal case, to some extent, determine the law. That is, whether the crime charged was committed in fact, and whether the facts with which the criminal is charged, do, in fact, constitute that crime. If the criminal is charged with murder, the first thing to determine is whether murder has been committed, or whether it is not manslaughter.

It seems to me the rule should be general, and that there should be inserted a clause such as I have mentioned. The rule has been more extended in some States than in others, and there has been some very laughable results from it. I recollect that upon the trial in Massachusetts of some persons charged with assisting in the escape of fugitive slaves, the people of that State thought that the law in reference to instruction to juries, was rather too harsh, and they passed a law leaving it to the jury to decide the law in criminal cases. The first application of that law made by juries, was to decide that the Maine liquor law was unconstitutional. And in every case which was brought up in Boston, the juries decided that the law was not law because it was unconstitutional, and there was no case of conviction under that law for more than two years, because the juries had the right to decide what was law and what was not law.

But it seems to me there is no question but that jurors have always had the right to decide the law in criminal cases.

Mr. LOWE demanded the yeas and nays upon the amendment.

The yeas and nays were ordered.

The question was then taken and it was decided in the negative.

Yeas twenty-one, and nays thirty-one, as follows:

Yeas—Messrs. Aldrich, Anderson, Balcombe, Billings, Butler, Cederstam, Dickerson, Folsom, Gerrish, Hayden, Holley, Lisle, Lowe, Mantor, McCann, McClure, Mills, Peckham, Smith, Walker, and Wilson—21.

Nays—Messrs. Ayer, Baldwin, Bates, Bartholomew, Bolles, Cleghorn, Colburn, Coe, Davis, Duley, Eschlie, Galbraith, Hall, Harding, Hudson, Hanson, King, Kemp, Morgan, North, Phelps, Perkins, Putnam, Robbins, Russell, Stannard, Secombe, Vaughn, Winell, Watson and Sheldon—31.

Mr. KING moved (at four o'clock and ten minutes) that the Convention adjourn.

The motion was not agreed to.

Fourth Amendment.—

(A mere verbal amendment, and was concurred in.)

Fifth Amendment.—Strike out all of section seven and insert the following:

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county or district wherein the criminal shall have been committed, which county or district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation against him; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

Mr. HUDSON. I cannot understand that there is any difference between that substi-

tute and the original section, except in the phraseology. The original section is in these words:

"In all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel; to demand the nature and cause of the accusation against him; to meet the witnesses face to face; to have compulsory process to compel the attendance of witnesses in his behalf, and in prosecutions by indictment or information, to a speedy public trial by an impartial jury of the county or district wherein the offence shall have been committed, which county or district shall have been previously ascertained by law."

If there is to be any amendments made to that, I suppose it would be the particular business of the committee on Arrangement and Phraseology to suggest it, and unless we can materially improve it, I do not see why we should adopt the substitute.

Mr. SECOMBE. I would state for the information of the gentleman, that the provision in question, offered as an amendment in committee of the Whole, was agreed upon after a long discussion and the offering of a great many propositions as amendments. This amendment is equivalent to a provision in the Constitution of the United States, and was adopted as a union measure. That accounts for its appearance here, and yet perhaps it is not materially different from the original section.

Mr. PERKINS. The intention and purport of the original section is the same as a similar section in the Constitution of the United States. But it was not expressed in precisely the same language, and in my opinion not as good language. The clause in the Constitution of the United States, like most clauses in that instrument, has received a judicial interpretation, and has come to be understood very uniformly. The language used there is significant, and expresses just the idea intended to be conveyed. There was some debate in the committee upon the meaning of this section. There was more particularly a discussion upon the meaning of the words "to meet the witnesses face to face," and as it reads in the original clause without any addition to it, in my judgment it means nothing at all. It was to get rid of such equivocal clauses, that the words of the Constitution of the United States were adopted word for word, and it seems to me no gentleman can object to a substitute of that kind.

The amendment was concurred in.

Sixth Amendment.—Section eight, after the word "himself" insert the words, "nor be deprived of life, liberty or property without due process of law."

The amendment was concurred in.

Seventh Amendment.—Section fourteen, strike out the word "agricultural."

The original clause of the section reads as follows:

"Leases and grants of agricultural land for a longer term than fifteen years, in which rent or service of any kind shall be reserved, and all fines and like restraints upon alienation reserved in any grant of land hereafter made, are declared to be void."

Mr. MORGAN. I hope the amendment will not be concurred in. Such a provision would be unprecedented. I do not think that a provision prohibiting the lease of land not agricultural, can be found in the Constitution of any State of the Union. Leases of non-agricultural lands are as common as any mode of conveyance. Leases of town lots for fifty or a hundred years are very common, and leases of water power and other rights have been common in every country. Now I apprehend that the object of a Bill of Rights is to protect persons in their rights, and not to prohibit their use. We undertake to say here, that a man who holds a lot of land, shall not have it for more than fifteen years. That is a direct prohibition of the use of his land. I do not see why, if I desire to keep a piece of land for my children, I should be deprived of the privilege of leasing it more than fifteen years. In many cases it is an advantageous mode of dealing with property, both for the lessor and the lessee. Town lots are frequently leased for a long time for the purpose of being built upon, and both parties derive advantage from it—the party owning the land being able to lease it, and to receive a remunerative rent for a long period of time, and the lessee being able to get it at a rate which will justify his putting improvements upon it. There are many instances where it is actually necessary, in order that the parties may receive an adequate benefit, that they should have the right of leasing for a considerable length of time.

The amendment makes the section apply to all lands. The objection to a restriction to

agricultural lands is not so great as to other lands. Such a provision has been introduced into the Constitution of Wisconsin. It was thought a great innovation to introduce it there.

I do not see the particular object of introducing this into the Bill of Rights at all. Rather than protecting men in their rights, it restricts them in the enjoyment of them. As to the extent of the application of this right to the disposal of property, I would say that the "Lock and Canal Company" of Lowell, Massachusetts, being the owner of the whole water power at that place, leased out water rights and land rights for the period of nine hundred and ninety nine years, so that the whole power might be used. Those water rights are now held under those leases, and it would not have been possible to divide that power in any other way. The same disposition may be made of the water power at St. Anthony Falls. There are two companies upon both sides of the river which own the whole power, and they hope to lease it out to permanent occupants for long terms, who will thereby be justified in putting permanent buildings upon it. A restriction of this kind would interfere very materially with the rights of property in a great many instances. There are leases in this City of St. Paul for a much longer period than fifteen years. A large portion of the territory of the cities of Baltimore and Philadelphia are held under long leases, and thereby the poor man, by paying a nominal ground rent, is enabled to erect a dwelling for himself, and then if he desires to sell it he sells his lease.

The question was then taken, and the amendment was not concurred in.

Ninth Amendment.—Section sixteenth, add thereto the words "except in cases of fraud" so that it shall read:

"No person shall be imprisoned for debt arising out or founded upon any contract expressed or implied, unless in cases of fraud."

The amendment was concurred in.

Tenth Amendment.—Section seventeen, after the word "wholesome" insert the word "exemption" and strike out all after the word "laws" so that the section shall read:

"The right of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome exemption laws."

Mr. ALDRICH called for a division of the question, first on inserting, and then upon striking out.

The question was taken upon each portion of the amendment separately, and they were severally concurred in.

Eleventh Amendment.—Section eighteen, after the word "any" insert the words "religious or "ecclesiastical," so that that clause of the section shall read:

"The right of every man to worship God according to the dictates of his own conscience shall never be infringed; nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any religious or ecclesiastical ministry against his consent."

Mr. MORGAN. I would state to the Convention that the reason why I offered that amendment was, because the word "ministry" is a general term, and originally meant "servant," and it is frequently used in that sense now. We have the ministry, for instance, of instruction. The intention was to provide against the compulsory attendance or support of any religious ministry.

The amendment was concurred in.

Twelfth Amendment.—Strike out all of section twenty-four, and insert the following:

"Dueling is an evil and shall never be allowed in this State."

Mr. NORTH. I move to strike out of the substitute the words "dueling is an evil."

The amendment was agreed to.

Mr. LOWE. I now submit to the Convention whether it is not advisable to strike out the rest of the substitute. It strikes me that we have so reduced the section that it sounds quite flat, and I hope it will all be left out.

Mr. SECOMBE. I am opposed to the amendment as it now stands, or as it stood before amended. I would not consent to have any provision in regard to dueling in the Constitution, except as a disqualification for office. I do not know why we should pick out any particular crime, and say that it shall not exist in this State. We might as well say that the crime of murder, manslaughter, or larceny shall not exist in this State. But I think it would be proper to say that dueling should be a disqualification for office. I should be in favor of that and that only. Consequently I am in favor of the section as it originally stood, before it was amended by the committee.

The amendment was then non-concurred in.

Thirteenth Amendment.—Strike out all of section twenty-five which is as follows:

"The criminal code shall be founded on principles of reformation and not of vindictive justice."

The amendment was not concurred in.

Fourteenth Amendment.—Insert the following additional section:

SEC. — The enumeration of the foregoing rights shall not be construed to impair or deny any others retained by the people."

Mr. SECOMBE. I think the language of that section should be slightly altered. I do not understand that the people are giving up any rights by declaring this Bill of Rights. The word "retain" was the word used in the Constitution of the United States where the States did give up to the general government certain rights, and that word would be proper in case the people were giving up, by this bill, certain of their rights. I move to amend by striking out the word "retain" and insert the word "possessed."

Mr. MORGAN. I hope the amendment recommended by the committee will not be concurred in. It seems to me mere surplussage, having no force whatever. The section was taken from the Constitution of the United States, which was adopted under different circumstances from ours. There the people did give up certain rights to the general government. But the section has no application to our case, and it has never been inserted in the Constitution of any State. We retain all the rights we had before, and the Bill of Rights is merely a guarantee to us of those rights.

Mr. ALDRICH. It seems to me that the section is all right as it now stands. The object is to give a portion of the people's rights to the officers of the government, and to retain a portion. It strikes me that the word "retain" is a better word than "possess," and we certainly have some rights which we have not delegated to anybody, and which we will not delegate.

Mr. SECOMBE. I do not understand that in this bill we delegate any of our rights to any person or body. We merely enunciate certain of the principal rights that we possess and we do not wish to have it understood by that enunciation, because we do not happen to mention certain others, that we have not got them.

Mr. ALDRICH. We do not delegate them in the Bill of Rights, but we do in the Constitution before we get through.

The amendment to the section was not agreed to.

Mr. NORTH. I now hope the additional section will not be agreed to. It seems to me to be entirely unnecessary, to be meaningless, and that it can have no real force. In fact it amounts to nothing. In the Bill of Rights we simply set forth certain rights, but we do not propose to take any rights from anybody, and to say that the setting forth any rights we do not impair any rights we retain is surplusage and can have no effect in any manner. I do not think we should encumber our Bill of Rights with anything which does not have a direct, plain, and tangible meaning.

The amendment was not concurred in.

Mr. NORTH. I now move to insert the following additional section:

"SEC. — Married women shall have the right to hold and convey real and personal property in their own right and separately from their husbands".

Mr. SECOMBE. I move to amend that amendment, by adding thereto the words "and to contract on their own behalf."

Mr. NORTH. I accept the amendment.

Mr. BILLINGS. To contract what?

Mr. SECOMBE. Any and every thing they please. My object is to put women upon the same footing with men in regard to doing business, so that she may enter into business upon her own account, buy and sell, and enter into contracts of all kinds in the same way and manner that a man does. I think there is a Constitutional provision like this in the Constitution of California, and I would like to see it adopted here. If women are to hold property in their own names, they should have the right to use that property so as to increase it.

Mr. LOWE. The gentleman would do well to mention also, that we learn by the last accounts from California, that that provision has been found to operate so badly, that the people desire to repeal it. I am in favor of doing something for widows too, (laughter) and for the whole female sex, but it may be objected that it would be infringing upon the business of the Legislature. I wish to do as much for women as possible,

but not in violation of the laws. (Laughter.)

Mr. WILSON. Then I hope it is a joke all through. This matter of permitting married women to dispose of their property without the consent of their husbands is all wrong. The husband cannot dispose of his real property without the consent of his wife, and now they want us to say that a woman is not only as good as a man for doing business, but that she is his superior. A husband cannot convey his real estate and deprive his wife of her dower, but you would allow a woman to convey her real estate and leave the husband no right in it whatever. It is all wrong. A woman does not understand any thing about buying and bartering real estate. I hope we shall be serious about this matter or else make it a joke out and out.

Mr. MANTOR. Like the gentleman from Winona, I really imagined that when that amendment was offered, it was a mere matter of joke, and that nobody was serious about it. But it proves not to be a matter of joke. I am convinced that if ANTOINETTE L. BROWN, LUCY STONE, and ABBEY KELLEY should hear of the adoption of this section, they would send up to this Convention a letter of congratulation. It seems to me a preposterous idea, although in this day of new fangled notions it is not to be wondered at that we should attempt to give to a certain portion of the fair sex the right to hold property in their own names, and to convey it without the consent of their husbands. If this appendage is to be added to our Bill of Rights, I should be in favor of amending it so as to do something for the widows. But the whole matter seems to me to be absurd and ridiculous in the extreme. I should like to see the matter disposed of in all seriousness.

Mr. NORTH. In offering that section in the form in which I did, I intended no joke. I meant to be as serious as the gentlemen who have spoken upon the subject, and I meant it to the fullest extent gentlemen have construed it—that married women should have the right not only to hold personal and real property in their own right, but to have the right to convey it independently and freely without any control whatever upon the part of their husbands. Now it may be that that is going too far, and that the husband should have the right of dower, or something equivalent to it. But in the state of facts which exist it is rare for a married woman to hold any property at all. She seldom holds property in her own right except in cases in which it is important that she should have the complete and unrestricted control of it. How often do we see cases where the friends of a woman, having a dissipated husband, are disposed to do something for her and her children—are anxious to give her property if it could be placed beyond the control of her husband—but are prevented from doing it on account of his dissipated habits. There may indeed be a few cases where this provision would work an inconvenience and wrong to the husband, but there are a multitude of cases where the restraint upon a woman's conveying without the consent of her husband, does work great inconvenience and wrong. I think that for answering the ends of justice, and subserving the object for which that provision is offered, it is now in just the right shape, but if any one wishes to change it so as to give the husband the right to dower in his wife's real estate, I shall have no objection.

Mr. SECOMBE. I was equally in earnest in proposing the amendment I did; for while I hold that it is proper and right that married women should hold property in their own names, whether it is acquired by their own labor, or bestowed upon them as a gift, or inherited, I at the same time believe that women should have the right to use their property to the best advantage, so that they may increase it, so that if it is a benefit to her in its original state, it will be increased by this privilege.

Gentlemen have stated that if this provision is adopted, they should be obliged to move an additional section in favor of widows. I take it that there is no gentleman here who does not know that unmarried women have the right to hold property and to buy and sell, and carry on business. It is not necessary that a person should be a male in order to hold property and do business. But it is necessary that there should be some provision in regard to married women, to give them the same rights that single women have. I therefore hope the amendment offered by the gentleman from Rice county will pass.

The gentleman from Winona [Mr. WILSON]

complains that the husband cannot sell his real estate without the joining of the wife, so as to cut off her right of dower. The gentleman from Winona will admit that the wife cannot sell her real estate without the joining of her husband so as to cut off his right by courtesy, which is given by the same code of laws which gives the right of dower to the wife.

Mr. MORGAN. It seems to me that this is going a little too far. As the law now is the wife has the right of dower in her husband's real estate, and the husband cannot cut it off by a conveyance during his life time, nor by devise. As an offset to that the husband has always had the right to courtesy in the wife's real estate,—that is, when the wife dies and leaves real estate the husband has the right of using that real estate during his life time, and he is called tenant by courtesy. Now what is proposed by this section is, not only to allow the wife to take and hold her right of dower to the full extent, but to cut off the husband's right to courtesy by allowing her to convey without the husband's consent, or to devise so that after her death he can have no interest in her real estate. It seems to me that that is going further than is required of us. I am perfectly willing to protect a married woman's property to a reasonable extent, but no further. I think this section goes too far.

Mr. NORTH. I have no idea that we can get through with this amendment this evening, and therefore I move that the Convention adjourn.

The motion was agreed to, and thereupon the Convention, (at five o'clock and fifteen minutes) adjourned.

FIFTEENTH DAY.

WEDNESDAY, July 29, 1857.

The Convention met at nine o'clock, A. M. Prayer by the Chaplain, Rev. E. D. NEILL.

REPORTS OF COMMITTEES.

Mr. RUSSELL, from the committee to whom was referred that part of the Constitution which relates to County and Township organization, made the following report, which was read a first and second time and laid on the table to be printed, viz:

COUNTY ORGANIZATIONS—ARTICLE.

SECTION 1. Each organized county shall be a body corporate, with such powers and immunities as shall be established by law. All suits or proceedings by or against a county shall be in the name thereof.

SEC. 2. No new county shall be formed or established by the Legislature of less area than four hundred square miles, nor shall any orgauized county be divided, or have any part stricken therefrom, without submitting the question to a vote of the electors of the county or counties to be directly affected or dismembered, and unless a majority of all the votes cast shall be in favor of the same.

SEC. 3. No county seat shall be removed until the point to which it is proposed to be removed shall be designated by two-thirds of the Board of Supervisors of the county, and a majority of the electors of the county voting thereon shall have voted in favor of the removal of the county seat to the proposed location in such manuer as shall be prescribed by law.

SEC. 4. The Legislature may organize any city into a separate county when it has attained a population of twenty thousand inhabitants, without reference to geographical extent, when a majority of the electors of a county in which such city may be situated, voting thereon shall be in favor of a separate organization. Cities shall have such representation in the Board of Supervisors of the counties in which they are situated as the Legislature may direct.

SEC. 5. A board of supervisors, consisting of one from each organized township, shall be established in each county with such powers as shall be prescribed by law,

SEC. 6. The board of supervisors of any county shall have the exclusive power to prescribe and fix the compensation for all services reudered for, and to adjust all claims against their respective counties.

SEC. 7. The board of supervisors of each organized county may provide for laying out and constructing highways and organizing townships, under such restrictions and limitations as shall be prescribed by law.

SEC. 8. The board of supervisors of any county may borrow or raise by tax one thousand dollars for constructing or repairing public buildings and highways; but no greater sum shall be borrowed or raised by tax for such purpose in auy one year, unless authorized by a majority of the electors of such county voting thereon, and they shall have such powers of local taxation for public purposes as may be prescribed by law.

SEC. 9. In each organized county there shall be a Sheriff, a County Clerk, a County Treasurer, a Register of Deeds, a Prosecuting Attorney, a Superintendent of Common Schools, a County Surveyor, and a Coroner, chosen by the electors thereof once in two years, and as often as vacancies shall happen, whose powers aud duties shall be

prescribed by law. The board of Supervisors in any county may unite the offices of county clerk and register of deeds in one office or disconnect the same.

SEC. 10. The sheriff shall hold no other office, and shall be incapable of holding the office of sheriff longer than four in any period of six years. He may be required by law to renew his security from time to time, and in default of giving such security his office shall be deemed vacant.

SEC. 11. All county officers may be removed in such manner and for such cause as shall be prescribed by law.

TOWNSHIP ORGANIZATIONS.—ARTICLE.

SECTION 1. Each organized township shall be a body corporate with such powers and immunities as shall be prescribed by law. All suits and proceedings by or against a township shall be in the name thereof.

SEC. 2. There shall be elected annually in each organized township, one Supervisor, one Township Clerk, three Commissioners of Highways, one Township Assessor, one Township Treasurer, three School Commissioners, one Overseer for each Highway District, not exceeding four Constables, whose powers and duties shall be prescribed by law.

SEC. 3. Justices of the peace and Township officers may be removed in such manner and for such cause as shall be prescribed by law.

Mr. BALDWIN, from the committee to whom was referred the report of the Constitution relating to Educational Institutions and Interests, made the following report:

SECTION 1. The superintendent of public instruction shall have the general supervision of public instruction and his duties shall be prescribed by law.

SEC. 2. The proceeds of all lands that have been or that may hereafter be granted by the United States for the support of schools, which may be sold or disposed of, and all estates of deceased persons who may have died without leaving a will or heir, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the Legislature shall provide shall be exclusively applied to the following objects, viz:

First.—The support and maintenance of common schools in each school district and the purchase of suitable libraries and apparatus therefor.

Second.—The residue shall be appropriated to the support and maintenance of academies and normal schools and suitable libraries therefor.

SEC. 3. The Legislature shall, within five years from the adoption of this Constitution, provide for and establish a system of common schools, which shall be as nearly uniform as practicable, whereby a school shall be kept without charge for tuition, at least three months in each year, in every School District in the State, and all instructions in said schools shall be in the English language, and no sectarian instruction shall be allowed therein.

SEC. 4. Provision shall be made by law for the distribution of the income of the school fund among the several towns and cities of the State for the support of common schools therein, in some just proportion to the number of children and youth resident therein, between the ages of four and twenty years, and no appropriation shall be made from the school fund to any school district for the year in which a school shall not be maintained at least three months.

SEC. 5. The Legislature shall provide for the establishment of a library in each school district, and all fines assessed and collected in the several counties and townships, for any breach of the penal laws shall be exclusively applied to the support of such libraries.

SEC. 6. There shall be elected in each judicial circuit at the time of the election of the judge of such circuit, a regent of the university, whose term of office shall be the same as that of such judge The regents thus elected shall constitute the board of regents of the university of Minnesota.

SEC. 7. The regents of the university and their successors in office shall continue to constitute the body corporate, known by the name and title of "The Regents of the University of Minnesota." They shall have the general supervision of the university, and the direction and control of all expenditures from the university interest fund.

SEC. 8. The Secretary of State, State Treasurer, and Attorney General, shall constitute a board of commissioners for the sale of the school and university lands, and for the investment of the funds arising therefrom. Any two of said commissioners shall be a quorum for the transaction of all business pertaining to the duties of their office.

SEC. 9. Provision shall be made by law for the sale of all school and university lands, after they shall have been appraised, and that notice that such sale will take place shall in all cases be given at least three months prior thereto, by publication in the newspapers, and by posters placed in conspicuous places in the county in which such lands are situated. No sale shall take effect unless at least one-fourth of the purchase money be paid at the time of the sale, and when such lands shall be sold, and a portion of the purchase money shall not be paid at the time of the sale, the Commissioners shall take security by mortgage upon the land sold, for the sum remaining unpaid, with twelve per cent. interest thereon, payable annually at the office of the Treasurer, except on timbered lands, which may be depreciated in value, for which the commissioners shall require such additional security as shall by them be deemed amply sufficient for ensure the purchase of the payment money upon such lands remaining unpaid. The commissioners shall be authorized to execute a good and sufficient conveyance to all purchasers of such lands, and to discharge any mortgage taken as security when

the sum due thereon shall be paid. The commissioners shall have power to withhold from sale any portion of such land when they shall deem it expedient) and shall invest moneys arising from the sale of such lands, as well as university and school funds, in such manner as the Legislature shall provide, and shall give such security for the faithful performance of their duties as may be required by law.

SEC. 10. The board of supervisors in each county shall constitute a board of appraisers, whose duty it shall be, within three months previous to the time any school or university lands in their respective counties are offered for sale, to fix the valuation thereof, and in no case shall any portion of such lands be sold for less than the appraised value.

SEC. 11. Institutions for the benefit of those inhabitants who are deaf, dumb, blind or insane, shall always be fostered and sustained.

SEC. 12. The Legislature shall encourage the promotion of intellectual, scientific, and agricultural improvements, and shall, as soon as practicable, provide for the establishment of an agricultural school. The Legislature may appropriate all salt springs, with the six sections of land adjoining or contiguous thereto, to which the State, on admission into the Union shall be entitled according to the provisions of the Act of Congress, entitled "An Act to authorize the people of Minnesota to "form a Constitution and State Government pre-"paratory to their admission into the Union on an "equal footing with the original States," and any land which may hereafter be granted or appropriated for such purpose, for the support and maintenance of such school, and may make the same a branch of the university for instruction in agriculture and the natural sciences connected therewith, and place the same under the supervision of the regents of the university.

The report was read a first and second time, and laid on the table to be printed.

Under the order of business, the following resolution was taken from the table and considered, viz:

"*Resolved*, That the object of a Constitution is to organize a government prescribing the nature and extent of the powers of the several departments thereof, and that to engraft any legislative enactments therein would be anti-Republican. Further that a Bill of Rights should only be declaratory of fundamental principles."

Mr. FOSTER. That resolution contains but a simple declaration of sentiment. It may be all very well. I presume nobody disputes its main proposition, but really, it seems hardly worth while to put such a declaration upon our journals. Every body concedes that we ought not to have a code of laws in our Constitution, and the only point of difference between any of us, would be as to what constitutes legislation, and what were abstract fundamental principles. One member thinks we should lay down certain points in the Constitution which are necessary to guide legislation, and he would make them full and explicit. Another member thinks differently. Now pass that resolution and the same thing will be still constantly occurring. It can do no good. I am opposed to affirming a mere truism.

Mr. NORTH. Should we make a complete code of laws in our Constitution, I would inquire if that would necessarily make it anti-Republican in its form? I do not exactly see the truth asserted in that resolution, and therefore shall vote against it.

Mr. RUSSELL moved that the resolution be laid upon the table.

The motion was agreed to.

PREAMBLE AND BILL OF RIGHTS.

The Convention next proceeded under the order of business, to the consideration of the report of the committee upon the Preamble and Bill of Rights.

The first question was upon the amendment offered yesterday, as follows:

"SEC. —. Married women shall have the right to hold and convey real and personal property in their own right separately from their husbands, and to contract on their own behalf."

Mr. SECOMBE. I offer the following substitute for that section:

"The common law disability of married women to hold, enjoy, and convey real property, and to contract on their own behalf shall not exist in this State."

I wish to make a few remarks upon this subject, in addition to what I said yesterday.

It was intimated in Convention at that time, that the amendment offered by the gentleman from Rice county, [Mr. NORTH] was offered as a joke, and that there was nothing serious about it. That intimation has since been repeated in connection with members of the Convention. Now I have to say so far as I am concerned, I attempted no joke in this matter. I prefer the substitute I have offered, and I believe it is acceptable to the gentleman from Rice county. It conveys the same meaning he intended to have conveyed in the original. The common law prohibits married

women from holding, in their own names, real and personal property: disposing of it, and entering into contracts upon their own behalf. It does not prohibit single women, either maidens or widows, from the exercise of those rights. For one, I do not believe it is right, just, or equitable, that when a woman contracts marriage, she shall lose the rights she possessed before. It throws a barrier in the way of marriage. It also offers an inducement to those who are in the bonds of matrimony to get out in some way.

Objections were made to the amendment proposed yesterday, on the ground that it gave an advantage to married women over married men. Although I do not so understand the amendment, yet the substitute is offered to obviate that difficulty. It was stated in the course of the argument yesterday, that a married man had, under the principles of the common law, a right by courtesy to the estate of his wife after her death, in certain circumstances; also, that a married woman possessed a similar right to dower in the estate of her husband, and that the amendment offered by the gentleman from Rice county proposed to take away that right from the husband, and still retain it for the wife. Now under the workings of the substitute I have offered, there can be no such objection as that. If I understand the principles of law correctly, it would leave the husband and wife upon an equal footing in regard to the whole thing of having property and making contracts. If the husband should convey his property without the signature of the wife, her right of dower would remain unimpaired, and if the wife should convey her property without the signature of her husband, his right to courtesy would remain unimpaired.

We have already adopted in our Bill of Rights, a provision in contravention of the principles of the common law upon this subject. We have provided that no distinction shall be made in this State between resident aliens and citizens, in regard to the holding or conveying of property. And it is equally proper that we should contravene the provisions of the common law in this case, if we deem such a provision just and equitable.

Mr. FOSTER. One question as to the bearing of that amendment. Am I to understand that in case an amendment of this kind is adopted, the wife would have the right to convey her real estate without the consent, or participation, in any manner of her husband?

Mr. SECOMBE. I understand the wife to have the same right to convey her property without the consent of her husband, that the husband has to convey without the consent of the wife.

Mr. FOSTER. I understand that now, by the common law, a husband has an interest in the wife's real estate after her death. Is that so?

Mr. SECOMBE. That is my understanding of it.

Mr. FOSTER. And that would still be reserved if this substitute should be adopted?

Mr. SECOMBE. Certainly.

Mr. FOSTER. Another question. Would this substitute authorize the wife to convey absolutely by devise, without any reservation of the husband's rights?

Mr. SECOMBE. I would simply say, in answer to the question, that it is my understanding, that she would have the same relative right to convey her property, in the same manner that the husband would have. But I am not prepared to give a dissertation upon the principles of the common law to the fullest extent.

Mr. FOSTER. This is a very important matter, and we should be careful to make no mistake. The principle affects the whole social fabric, and if we should adopt anything which is not well matured, it might tend to loosen the bonds which bind society together. Now I am disposed to sustain the rights of woman as woman, and not to ignore her existence and rights to the extent which the old feudal system did, but at the same time I see a disposition abroad in community to so far separate the interests of man and wife as to loosen the bonds of the marriage contract, and to offer, as it were, an inducement to sever its ties. Of course if you give the man and wife separate and independent interests, that community of thought and action which are so desirable in that relation, is to some extent impaired.

As I said before, I am not a non-progressive in this matter, but am in favor of going ahead,—of relieving woman from some of

the old feudal restraints, and recognizing her in law as being a person having rights of her own, and not as being entirely absorbed in the man who is joined by law to her as husband.

I have had handed to me an amendment which I will read and offer as a substitute for the substitute:

"All property both real and personal of the wife, owned or claimed by marriage and that acquired afterwards by gift, devise or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property as that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property."

This substitute is a transcript of the provision in the Constitution of California. I wish to take the sense of the Convention upon it.

The question was taken on the substitute to the substitute, and it was agreed to.

The question then recurred on the substitute as amended.

Mr. WILSON. I am opposed to this whole matter—the original and the substitute.

The original goes to the fullest extent I think it possible to go, and both are legislation, rather than that which should be incorporated into a Constitution. Both proceed upon the ground that there is danger of the Legislature not only disregarding the rights of married women, but of repealing laws now in force in reference to them. Are not married women sufficiently protected now? Cannot they hold their separate property now in the way spoken of in this amendment? Certainly it is so. Now do we wish here, by innuendo or otherwise, to say that the Minnesota Legislature is likely to disregard the rights of married women? Is it necessary to insert into the Constitution special legislation upon this head more than upon any other? I think not. We are inclined to go too far upon this subject. We ought not to legislate in our Constitution upon any subject, and certainly not upon this. This is a subject upon which the Legislature itself is inclined to go full far enough. I will go as far as he who goes farthest in guaranteeing to woman all the rights she should have. But I do protest against putting a woman upon an equality with man in a business point of view. These out-door transactions are not her business. If she has any property before marriage, or if she acquires any after marriage, I am willing that she should hold it in such a manner that her husband cannot deprive her of it without her own voluntary consent; but I do not wish to say here, by implication or otherwise, that a woman is fitted, or ought to be fitted, for doing business generally. As soon as you place woman in that sphere you deprive her of all true womanhood. Her next step would be to the ballot box. If we go to this extent we may be justly called "women's rights men." I protest against saying directly or indirectly, that a Minnesota Legislature needs to be bound to do justice to women as such. They need no such obligations. Our laws are ample, and yet this says that other laws shall be passed. Why this sensitiveness? There are some points upon which men become sensitive, and which they consider the "all in all" of legislation. The Legislatures which have recently enacted laws upon this subject, have come up to all that women want. I tell you it is not the women that call for such provisions as this, but the men, and not a majority of them either. I hope the Convention will place a quietus upon this matter, and allow it to be carried no further.

Mr. NORTH. It is a little amusing to see how people are terrified for fear there may be a little item of fanaticism worked into the Constitution we are framing. It is amusing to see them frightened when they are so far from danger, and to see them work themselves up to a fever heat for fear the world is going to make some great revolution, and turn things topsy-turvy, which have stood upright for so many years, and that our opponents will call us fanatics. I confess I have no such fear. I believe that this age is wiser than the preceding one. I believe that the people of our day know more than people did in the dark ages, and feudal times. I believe they are capable of making wiser laws and institutions than were made then, and when they advance upon sound, correct, and philosophical principles, I think it is nonsense to be frightened for fear we shall make some improvement, and for fear the old fogies of the present day will call it fanaticism.

A provision of this kind is found in the

Constitution of California, and it has been incorporated into the laws of several other States. New York long since came up to that standard; and other States have been progressing towards it from year to year. This idea that we are going to abolish all that is good and old, and substitute something in its place, is simply ridiculous. I want to know if married women ought not to have some rights? If they ought to be completely under the control of their husbands, in all respects, and under all circumstances? If a woman before marriage has in her own right a large estate, is it just and reasonable or philosophical, that her husband, though he be an imbruted, degraded being, should take the entire control of it; or is it right that she should have the control of what was her own, and forever should be her own? If he has property, no matter how much more capable she might be to manage it, gentlemen would not advocate her control of it because she was much the more capable. Not at all, for it was his right. Now if a woman has property in her own right, why should she not be permitted to control, enjoy and protect it for her children? Or shall we insist, for fear of being called fanatical upon this subject, that the husband should be permitted under all circumstances, to use and squander that property? It seems to me that some safeguard should be thrown around the family circle; that children and women have rights which ought to be protected, and that our Constitution should afford that protection, in the same way that wise and experienced heads have thrown protection around that class in other States. With the history of the past upon this subject, and the example of other States before us, for us to wake up and begin to cry "fanaticism" for doing things which were deemed prudent and wise twenty years ago by the very best men of this country, is a little amusing indeed.

Mr. WILSON. I am sorry that he, who above all others seeks the insertion of this clause, should not represent it to the full extent to which it goes. But he does not. Who here says a word against permitting a woman to hold property in her own name? Do I? Does any one? And is that the full extent to which the section goes? Not at all. It goes far beyond that in its effects. I did not say that I was opposed to this because it was new. Nor do I wish to adopt the old common law rule that a married woman shall not hold property in her own name and right. That is not my position. I am willing that she should hold all her own property in her own name and right, and that she shall not be deprived of it, unless by her voluntary act. Such a provision now stands upon our statute book, and there is no probability of its being repealed. Now when should we guard our Legislature and put checks upon it? In my opinion, when that Legislature is likely to be turned aside from the path of duty, by some influence which can be brought to bear upon them. For instance, suppose we have corporations in our Territory of immense wealth. They may make an attack upon the integrity of the Legislature and induce them to make laws more favorable to such corporations than they should be. Then guard well your Legislature. But when we come to a matter of cool legislation where no money influence is brought to bear, where no local influence have any weight, why will not our Legislature be likely to pass laws as favorable to the rights of women, and the rights of humanity, as they ought to have? Why not? Is there to be any pecuniary influence brought to bear upon them to prevent them from doing right in the premises? I think not. Therefore we have no right to surround them with any provision of this sort which will prevent them from legislating as they think proper. A Constitutional enactment is something which will be permanent, while a legislative enactment may be changed when it is seen that it can be made better. Now if there is no danger of any wrong influences being brought to bear upon the Legislature, why tie their hands by such a provision as this? They come here yearly, instructed by by the people, and it is not probable that they will know the wishes of the people for the future, better than we can? Our laws, upon this subject, are now right, and they go as far as women generally wish them to go, so far as I know. There may be a few exceptions, and I say now that those women who are the exceptions are not those whom their sex will take for their type. They are women who are pointed out and shunned.

I care not for the fact that there is such a

provision in the Constitution of the State of California. Let me tell you that California was a State that needed such a provision, while Minnesota does not need it. California is an exception to almost all rules. They had no such laws upon their statute book as we have. Men and women went there together and men, upright and honest at home, became there dissipated, reckless, gamblers and all such things. Theirs was a sort of transition state. They perhaps needed such a provision. We, on the contrary, are a sober, temperate, and honest people usually. Our legislation upon this subject has always been liberal. Why then throw a check around them and compel them to pass laws upon a subject upon which there are ample laws already? If the gentleman insists upon his amendment let him first show that our laws are not amply liberal upon the subject, or that there is danger that the Legislature will repeal those laws; and further that his amendment only asks that married women may hold property in their own right.

Mr. PERKINS. According to the principles of the common law there are certain disabilities imposed upon married women in relation to the holding and disposing of property, and the making of contracts. Those disabilities have been sanctioned for centuries and have been approved by a vast amount of learning. And now gentlemen propose to brush away all the experience and learning of centuries past. They go further, and say that this new rule is not to be introduced as an experiment, to see whether it will work well, notwithstanding it is in opposition to the lore of centuries. The old rule is to be swept away perpetually. We are to revolutionize the whole law on that subject at once. We are to incorporate this new principle into our Constitution and recognize it as one of the fundamental principles which underlie the Constitution. Because we hesitate to go to that length at once, before the experiment has been fully tested, before it has been ascertained whether that is the best principle or not, gentlemen are inclined to denounce us as old fogies. It does not seem to me that the charge is just, or that a revolution so radical ought to take place at once, or that we ought to take the responsibility of putting such a clause in our Constitution until the principle has been more thoroughly tested than it has been. To say the least, we should leave it for the present with the Legislature. If the people demand that further protection shall be thrown around married women, the Legislature will comply with that requisition. With them then I would leave the matter entirely. It was one of the principles of the common law that there should be a perfect union between man and wife, and in order to establish that union, these disabilities were imposed upon the wife. Now it seems to me, as suggested by a gentleman upon the other side, that to incorporate this provision into our Constitution and declare it to be a fundamental principle, would be to loosen the bonds of the married relation. I hope the Convention will not see fit to go the length which some gentlemen desire.

Mr. NORTH. I do not want to spend much time in discussing this question, but it is an important one, and it becomes us to look at it calmly and rationally. If the gentleman's argument is sound, that it is well enough to leave this matter with the Legislature, and confide in their judgment for right legislation, I ask why it is not equally sound and rational to leave other points, upon which we are now framing a Constitution, to the action of the Legislature also? Are our rights as men, so much more imperiled than those of women; are we so much more weak and defenseless, that we need Constitutional protection for ourselves, while they need none? If that is not the reason, what is the reason that married women shall not have constitutional protection to their rights, as well as men in theirs? For myself I confess I am so obtuse that I cannot see why men should have such protection and women have nothing of the sort. I have always been accustomed to think that law was peculiarly adapted to the protection of the weak. The strong, it is remarked, need no protection. They can take care of themselves, but the weak and defenseless need the strongest protection and guarantee of law.

Mr. KING (interrupting) I rise to a point of order. Rule seventh of this Convention says that no member shall speak more than twice on the same question, nor more than fifteen minutes at any one time without leave of the Convention, nor more than once until

every member who chooses to speak shall have spoken. The gentleman has spoken twice before on this subject, and he is out of order, unless the Convention grant leave to proceed.

Cries of "leave" "leave."

Mr. NORTH proceeded. I wish now to refer to, and read the clause of the California Constitution, to ascertain whether there is anything so very ultra in the sentiments embodied there. It is as follows:

"All property both real and personal of the wife, owned or claimed by marriage, and that acquired afterward by gift, devise, or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property, as to that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property."

It happens that when the laws now upon our statute book on this subject, were passed by our Territorial Legislature, there were many who were just as much opposed to legislating upon the rights of married women, and as fearful of the fanatical doctrine of guarding the rights of married women at all, as some gentlemen of this Convention are to-day. The idea of woman's rights were sneered at in the same manner, and by the same kind of slurs and innuendos that are sometimes exhibited here. But there was good sense enough in that Legislature to pass good and wholesome laws for woman's protection. It was my privilege to advocate them, as I advocate now, the same kind of legislation. I had the opportunity of urging that provision then, and I met with the same kind of opposition that now meets me here. The amendment I offered is not of itself legislation, but it imposes upon the Legislature the duty of legislating upon the subject, and more specifically defining and guarding the rights therein enunciated.

This, seems to me to be one of the most wise, just, and wholesome provisions we can incorporate into our Constitution, and one which should be made as prominent in the fundamental law as any other. As a man I should be ashamed to ask a constitutional protection of my rights, and then turn around and say that women shall be turned away to to trust to haphazard legislation for her protection.

Mr. McCLURE. I understand the question now to be upon the adoption of the substitute as amended. I hope the good sense of the Convention will prevent it from being adopted. It never moves me a particle to hear certain gentlemen from certain quarters talk about old fogyism. It is a thing which I have heard a long time and have got used to it. We ought to act here as sensible men, and undoubtedly we all suppose we are doing so, and yet, we may do things which, when published to the world, may show that we are acting a little foolishly.

My friend from Rice County (Mr. NORTH) takes the position that all the opponents to his amendment are opposed to married women holding property at all. The gentleman must undoubtedly know, if he considers for a moment, that that is not the position taken by the gentleman from Winona, nor is it the position taken by myself. I am in favor of married women having every right that a wise legislation may deem it proper to give them. But I am not in favor of placing this provision into the Constitution, nor would I be in favor of engrafting it into a law, were I a legislator, nor do I think the gentleman himself would, if he looks at the language carefully. How does it read? "All property, "both real and personal, of a wife, *owned* or "*claimed by marriage*, &c." Now what property does a wife claim or own by marriage? I suppose the gentleman meant to say *before* marriage. I would like the gentleman to tell me what property the wife becomes possessed of by marriage, real or personal? It may be that I am too old a fogy to see it, but I must confess my inability. Had it said property owned by her *before* marriage, I should have understood it. The balance of the substitute is as follows:

"And that afterwards acquired by gift, devise or descent, shall be her separate property; and laws shall be passed more clearly defining the rights of the wife, in relation as well to her separate property, as to that held in common with her husband. Laws shall also be passed providing for the registration of the wife's separate property."

Now the objection I take to that is, that I do not think that anything so legislative in its character should be incorporated into our Constitution. We ought to make a Constitution as plain and simple as possible, and to leave to those who may legislate under the Constitution, to secure all those rights to

married women and others, which ought to be secured to them. I am in favor of securing to married women sufficient to guard them against all the inconsistencies of man, but I am opposed to so completely separating them that they shall be distinct persons in interest, when the Bible says "they twain "shall be one flesh,"—and I believe the gentleman across the way is a higher law man. Then I am opposed to any legislation, either in or out of the Constitution, to so separate man and wife that one can set up a trade in one end of the Capitol, and the other in the other, independently of each other. The effect which would result, reminds me of the story of the man who proposed to a husband that he would give him the best horse in his flock, if he and his wife would agree upon the selection. The husband selected the one he thought best, and the wife selected a certain gray mare which she asserted to be the better horse. They could not agree and the consequence was that the man saved his horse. Now the same would be the result if husband and wife were allowed to be entirely independent of each other in controlling their property. Instead of promoting domestic happiness, it would place a barrier between them. I wish gentlemen to understand that I am not opposed to giving woman her rights, but I am opposed to placing any such provision in the Constitution.

Mr. FOSTER. I would suggest that the word "before," should be inserted before the word "marriage." It is a mere clerical mistake.

Mr. BOLLES. Gentlemen seem to think that we are to exclude every thing from our Constitution which savors of legislation. I would like to ask gentleman what the result of our deliberations will be, if adopted by the people, if it is not legislation? Most certainly it is legislation. We are framing a law which is to be emphatically *the* law of the State. So that whatever we do, I would have gentlemen understand, that it is legislation, so far as it is incorporated into the Constitution. While we should be careful not to encumber our Constitution with useless legislation and superfluities, the idea that we should not incorporate anything which is legislation, is ridiculous upon the face of it.

A word in regard to the idea that we must not take up new propositions. If I understand the object of a Constitutional Convention, it is that we should take up new ideas and with the world, digest them and incorporate them into the fundamental law if they are right. What is the use of a great and powerful State of our confederacy convening a Constitutional Convention, if it is not for that purpose? We are framing a Constitution for the State of Minnesota, and I trust we shall consider all the great ideas of the eighty years that we have been a separate and distinct government, and adopt them.

I am in favor of this proposition. I do think that the rights of married women, in certain circumstances, are not sufficiently guarded. They are an important part of community, and while we are legislating for the benefit of the community, we should legislate for all parts of it. The minority is not to be swallowed up by the majority in any instance. Their rights are as sacred as those of the majority. They should especially be guarded because the majority will look out for themselves. The class of persons particularly sought to be protected by the provision under consideration, are in the minority, and I hope the proposition will prevail.

The substitute as modified was then adopted.

Mr. SECOMBE. I call for the yeas and nays upon the question of adopting the amendment as amended, as a part of the Bill of Rights.

The yeas and nays were ordered, and the roll being called, it was decided in the affirmative. Yeas thirty-two and nays nineteen as follows:

Yeas—Messrs. Aldrich, Ayer, Baldwin, Bates, Bartholomew, Billings, Bolles, Butler, Cleghorn, Colburn, Coombs, Davis, Duley, Dickerson, Hayden, Hudson, Hanson, Holley, Kemp, Lyle, Mantor, Messer, Murphy, North, Phelps, Putnam, Peckham, Russell, Secombe, Vaughn, Walker, Winell, and Sheldon.—33.

Nays—Messrs. Anderson, Coe, Cederstam, Eschlie, Foster, Folsom, Gerrish, Hall, Harding, King, McCune, McClure, Morgan, Mills, Perkins, Stannard, Smith, Watson, and Wilson.—19.

So the amendment was agreed to.

Mr. BOLLES offered the following as an additional section:

"SEC. —. The Legislature shall pass no law licensing the traffic in intoxicating liquors."

Mr. HARDING offered the following as a substitute for the additional section:

"The Legislature shall pass no law granting license for the sale of intoxicating liquor as a beverage. But they may prohibit such sale by suitable enactments. *Provided* that no such law shall be in force until it shall have been approved by a majority of all the votes cast at the next general election succeeding the passage of such law."

Mr. BOLLES. I am decidedly opposed to the substitute. The objection has already been harped upon in this Convention that we are going too much into detail in saying what the Legislature may or may not do. My amendment is simply that the Legislature shall pass no law authorizing the traffic in ardent spirits. I am in favor of my proposition, expecting that if it is adopted, the Legislature will pass no law upon the subject, but leave the subject as it leaves the selling of potatoes and corn, or any other article of traffic. I do not mean that the Legislature shall impose upon good society the stigma of having laws upon the statute book which give encouragement to the traffic of the article spoken of.

I do not feel disposed to go into a full argument upon this question. If gentlemen are so exceedingly anxious to lay upon the table every proposition which emanates from certain individuals in this Convention, I want them to give some good reason for it. I am not disposed to have them disposed of so unceremoniously. If they have good reasons for not adopting them, I hope they will have the courtesy to state them.

Mr. MANTOR. I am really glad that this subject has come before the Convention. I am in favor of the original section, and opposed to the substitute. In the first place, when we look back and consider the difficulties which some States have labored under in regulating the sale of intoxicating drinks, we can discover that there is some pretty good reason why there should be a clause in the Constitution prohibiting it. I should be glad to see this thing carried to the fullest extent. If you please, I may be termed an ultraist upon this subject. I would be glad to hear every gentleman express his opinion upon it, without shirking responsibility by laying the matter upon the table. It is a self-evident fact throughout christendom, that the question of legislation upon the subject of intoxicating drinks, has caused more excitement, has been the means of spending more money and time, than any other subject within the same length of time. And why all this? Because our legislatures cannot adopt a right kind of a law for protecting our citizens from the use and abuse of the power which they give for the sale of intoxicating drinks. If gentlemen will look for a moment at the condition of the State of New York; and the immense difficulty she has had for the last few years, in her efforts to regulate this one thing, as shown by the records of her courts, and then glance at the amount of pauperism that exists there, and especially in her commercial metropolis, they can but come to the conclusion that it is best for the citizens of the Territory of Minnesota, who are about entering upon a new life, to throw around themselves the protection contemplated by this amendment, and that it is the duty of this Convention to nip the evil in the bud.

Sir, I cannot but feel a little chagrined at the thought that gentlemen will swerve from their duty and leave this thing to the Legislature, who may throw it into the hands of the people to vote upon. I am opposed to such a course. I have seen that thing once tried, and have seen its bad effects. I am opposed to ever submitting to the people the question of "license or no license." I hope there will be no shrinking on this question, and that every man will be willing to put himself upon the record by yeas and nays.

Mr. COLBURN. I hope we shall spend no time in discussing this question. I presume the minds of members are made up, and I am perfectly willing the yeas and nays should be called.

The question was taken on the substitute and it was not agreed to.

Mr. BOLLES called for the yeas and nays upon the section.

The yeas and nays were ordered, and the roll being called, there were yeas twelve and nays thirty-seven, as follows:

Yeas—Messrs. Aldrich, Anderson, Baldwin, Bolles, Cederstam, Harding, King, Lyle, Mantor, McCann, Messer, and Stannard—12.

Nays—Messrs. Bates, Bartholomew, Billings, Butler, Cleghorn, Colburn, Coe, Davis, Duley, Dickerson, Eschlie, Foster, Folsom, Gerrish, Hall, Hayden, Hudson, Hanson, Holley, Kemp, McCune, McClure, Morgan, Mills, Murphy, North, Phelps,

Putnam, Russell, Secombe, Smith, Vaughn, Walker, Winell, Watson and Sheldon—37.

So the section was not agreed to.

Pending the call of the roll, a member insisted that Mr. WILSON should vote.

Mr. SECOMBE. I object to that gentleman voting, as he was without the bar when the question was stated.

Mr. KING. We have a rule which requires every member to vote unless excused by the Convention.

The PRESIDENT. The fifteenth rule says that every member who shall be present when the question shall be last stated from the chair, shall vote for or against the same, unless the Convention shall excuse him, in which case he shall not vote.

Mr. WILSON. I came in after the question was stated and the call of the roll was half completed, and I hope the rule will be enforced. (Laughter.) I do not know anything about the question.

Mr. KING. One of our rules require members to be present.

The CHAIR then announced the result of of the vote as above stated.

Mr. WILSON. I will record my vote very quickly, if any gentleman will explain what the question is.

The PRESIDENT. There is no question before the Convention. (Laughter.)

Mr. STANNARD. I move to amend section fourteen by striking out all after the word "prohibited," so that we shall get rid of this question of leasing land for a term of years. And besides, it is a matter which should be left to the Legislature.

The amendment was agreed to.

Mr. STANNARD. I move to strike out section three, and insert in lieu thereof the following:

"The liberty of the press shall forever remain inviolate, and all persons may freely speak, write and publish their sentiments upon all subjects being responsible for the abuse of that right."

The amendment was agreed to.

Mr. CLEGHORN. I move to amend section seven by striking out the words—

"Of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law."

—My object is to guarantee, in many cases a change of venue. There may be cases of offenses committed, when it would be impossible for the accused to have an impartial trial in the same county. I wish to leave that matter to be provided for by the Legislature as circumstances may demand.

Mr. SECOMBE. I hope the amendment will not prevail. It has been one of the sacred rights always guaranteed to citizens, that they should be tried within the district wherein the crime was committed, and that that district should be previously defined. And if I really understand the interpretation which has been given to that clause, it has never prevented the Legislature from passing laws providing for a change of venue. If, however, it is understood to prevent that, I should be in favor of giving it such a limitation that the Legislature may pass laws authorizing, in certain cases, a change of venue.

Mr. FOSTER. The article in the Constitution of the United States is in these words:

"In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation against him; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence."

That is pretty high authority for the phraseology we have employed, and for one I desire to retain it.

The amendment was not agreed to.

Mr. HAYDEN. I move to amend section twenty-five by striking out the words "not of vindictive," so that it shall read:

"The criminal code shall be founded on principles of reformation and justice."

Mr. FOSTER. If that amendment prevails, I hope the whole section will be stricken out.

The amendment was agreed to,

Mr. FOSTER. I move to strike out the section as amended.

The motion was not agreed to.

Mr. BOLLES. I move to strike out section nineteen and insert the following:

"No religious test or property qualification shall ever be required for civil privileges."

Mr. FOSTER. It seems to me that the vital point of section nineteen is left out of

the gentleman's substitute. The last part of the section reads as follows:

"Nor shall any person be rendered incompetent to give evidence in any court of law or equity, in consequence of his opinion upon the subject of religion."

If it is designed by the gentleman's amendment to allow the judges of the Court, in their discretion to say that because a man believes in this or that dogma or sect, whatever it may be, therefore he is not competent to give evidence in a court of justice, I think we ought to vote down the amendment. In the progress of events and of liberal opinions, we have arrived at that point when a man's opinions in regard to a Heaven or Hell,—in regard to the present and the future, shall not incapacitate him to give evidence in a Court of justice, and the dictum of no judge should exclude him on that account. I wish such a right guaranteed in the Constitution, for the decisions of judges upon that question have been various. A man may be a man of truth and veracity, and his oath just as reliable as that of any other person, even though he may not believe in all the notions which are considered orthodox in regard to future rewards and punishments, or any other religious doctrine of the present day. I am opposed to the amendment, for the reasons which I have stated. I am for man as man, in all cases, without regard to his religious belief, and I am opposed, upon principle, to depriving him of any privileges which he, as a man, is entitled to.

Mr. BOLLES. I differ with the gentleman in the position he assumes in reference to the amendment. I claim that the term "civil "privileges," which I have used, include all the privileges a man is entitled to under the civil code. It includes the privilege of going into Court and testifying as a witness. We hold our religious views under the protection of the civil laws, when they do not infringe upon the rights of other individuals, and those rights are included in the term "civil "privileges."

I am not tenacious about the amendment. I offered it because I thought it would simplify the matter, and was just what we wanted. The gentleman is entirely mistaken in his construction of its meaning.

Mr. FOSTER. That will entirely depend upon the construction of the Courts as to what "civil privileges" mean.

The amendment was not agreed to.

Mr. KING. I move to amend section sixteen by striking out the words "arising out "of any contract expressed or implied," so that the section shall read—"no person shall "be imprisoned for debt, unless in cases of "fraud." As our Constitution is to be based upon principles of reformation and justice, perhaps it would be well to put a man in jail if he is guilty of fraud and deceit, but in no case on account of debt simply. That would be only a burden upon the community, and also upon the individual who put him in jail; and without any good result.

Mr. SECOMBE. I am in favor of the proposed amendment. The language as it now stands, is not only circumlocution, but it leaves it a matter of some doubt what is intended. There are two classes of debts,—those arising from contracts, and those arising from tort. This would leave the matter so that any person might be imprisoned in any action arising out of tort, and in addition to that leave it so that he might be imprisoned in an action arising out of contract, if fraud were connected with that debt. If we adopt the amendment offered, it seems to me that it will include the whole idea that there shall be no imprisonment for debt except in case of fraud, whether that debt arise out of contract originally, or whether it arises out of fraud originally. There may be fraudulent circumstances subsequent to a debt arising out of contract, which I think would justify imprisonment,—for instance the case of a debtor putting his property out of his hands, after a debt has arisen, to prevent the liquidation of that debt.

Mr. FOSTER. Upon this matter I should like to hear the views of other members of the legal profession. They tell me there are two or three kinds of debt. There is debt arising from damages. That is what the gentleman calls a tort. Would this section prohibit imprisonment for legal penalties,—fines for instance—which in one sense are a debt to the State or community? If the striking out of the word "proposed," would have that comprehensive scope, we would do well to pause, for we should catch in our net almost every kind of debt.

Mr. SECOMBE. I do not understand that the word "debt" in this connection would include fines.

Mr. MORGAN. It seems to me that the amendment would simplify the section and still cover the whole ground desired. It seems to me that there will be no difficulty in determining the application of the section to cases of fraud. There are actions upon contracts, and actions for damages. Those are neither of them cases of fraud. A case of fraud might be something like this: Suppose A gives me a check upon a bank where he has no funds. I pay him for the check, and he gets my money by a fraud; and in such a case under this section I could arrest him. It is to such cases, that I understand the provision is to apply.

Mr. BILLINGS. I am opposed to the amendment, if I understand it. I think it might be well to strike out the words "expressed or implied;" but to strike out the words "arising out of, or founded upon any "contract," does not seem to me right. I think that there should be no imprisonment for debt, which really is founded upon or arises out of contract. But where it arises out of fraud I think the Legislature should have the power to provide by law for imprisonment on that account, otherwise a man who has no property might commit a tort with impunity. You might get a judgment against him, but that would be the end of it. The thing is clear as it now stands, and there can be no mistake about it, and no mischief resulting from it. On the contrary, great inconvenience, and very deplorable results might follow from striking out those words, and thereby tying up the hands of the Legislature.

Mr. MORGAN. The great objection to all this matter is that it is a question of legislation. We now have upon our statute book a law which covers the whole ground that is covered by this section, and I do not suppose there is any probability of that law being changed. I find that almost all our clauses and sections upon which a question is raised as to their application, embrace matters of legislation, and not general principles which ought to be laid down in a Constitution. Now this is a matter of legislation, and has usually been treated as such, but perhaps there can be no great objection to its being placed in the Bill of Rights, if it can be stated in a clear manner, so as to leave no doubt upon the mind as to its application. It seems to me that to say a man shall not be imprisoned for debt except in cases of fraud, is exactly what we want, and covers the whole ground.

Mr. FOSTER. I am under the impression that if we strike out the words—

Mr. KING. I rise to a question of order. The gentleman has already spoken on this subject, and he has no right to speak again, until other members who wish to speak, have spoken.

(Cries of "FOSTER!" "FOSTER!")

The PRESIDENT. The gentleman will proceed, as no other member claims the right to speak.

Mr. FOSTER. If we strike out the words proposed, I am inclined to think the section will include imprisonment for two or three kinds of debt—one, for instance, damages rendered by a jury for assault and battery, which damages then become a debt, but not one founded on contract. Another case would be where a man has damages rendered against him for slander. Both are penalties and become debts, though not founded on contract expressed or implied. I am inclined to think that we ought to leave the section as it now stands.

Mr. KING. The gentleman supposes that a debt may arise out of a suit for slander, and that if my amendment is adopted, the author of the slander could not be put in jail for it. Well, I should like to know whether the section as it now stands, covers that case—whether there is any contract expressed or implied that he should not engage in slander. He also supposes that a case of debt might arise out of an assault and battery, and consequently that the offender could not be put in jail for it, because it was a debt of assault and battery. It is strange that a man should make such an objection as that, because a man guilty of such an act is liable to imprisonment whether there be a contract or not.

But what good does it do to put a man in jail for debt? If I owe a debt, my only hope of liquidating it is from the avails of my labor, from which I am cut off, if imprisoned. What good does it do to put a man in jail for debt? If I owe a debt, when am I going to be able to pay it, if I am put in jail? If left

at large, I can possibly earn sufficient to pay it.

The amendment was not agreeed to.

Mr. WILSON. I move to amend section thirteen, by adding thereto the words—

"And the jury or commissioners assessing the damages shall not take into consideration any damages which will result to the owner on account of the improvement for which it was taken."

Mr. NORTH. I want to say to the gentleman from Winona, who offers that amendment, that we ought to leave that matter to the Legislature, and not legislate upon it ourselves in the Constitution. We should enunciate simple principles, and leave the Legislature to go into the minutia. And it strikes me further that the principle is manifestly unjust. There might be a small piece of property taken for the public use, by which an immense advantage would accrue to the owner of the whole property; and it seems to me that in the assessment of damages, all the circumstances should, in justice to the public and to the individual, be taken into account.

The PRESIDENT. The Chair would remind the gentleman that this whole matter was discussed at length the other day during the absence of many members.

Mr. NORTH. I remember that it was discussed somewhat when I was present, and I believe I said something upon the subject then. I am most decidedly opposed to the amendment being added to the section, for the reason I have already stated, and further for the reason urged by the gentleman himself—applicable to this case, though not applicable to the case to which he applied it—that it is purely a matter of legislation.

Mr. MORGAN. This is a mooted question. If gentlemen will look into the doings of the last Legislature at its extra session, they will find that in granting acts of incorporation to various railroad companies, the Legislature inserted a provision that damages for lands taken by those companies, should be assessed by commissioners or a jury, and that those commissioners, or the jury, should take into consideration the benefit to the party derived from the improvement. That was adopted by a large majority of the Legislature. The principle has prevailed, also, in other Legislatures, and in others it has been discarded. So it is a mooted question, and ought not to be brought into the Constitution, where we merely lay down general principles, supposed to be acquiesced in by a large majority of every community.

Mr. WILSON. Mr. President, I am glad to see my friend from Rice County (Mr. NORTH) show such a placid smile to the Convention, as though he had proved that certain persons had been inconsistent. Now sir, when a whole family are concerned and suffering it is worse than when one woman is suffering, alone. But to say nothing about woman's rights—for I do not belong to that school—the gentleman did not give the right construction to my position, from the fact that I stated distinctly that when there is any probability that influences will be brought to bear upon the Legislature to divert it from the path of right, and to cause legislators to make enactments which are not wholesome and just, then put restraints upon that Legislature.

But this is not legislation, but prohibition of legislation. And I will here say further that the more numerous the cases which are shown where the Legislature has gone so far as to say that the benefit resulting from a public improvement shall be taken into account in assessing the damages of any individual the greater the necessity, and the more imperative our duty to insert such a provision as this into the Constitution. The question resolves itself into this: is it right or wrong that a jury, or commissioners should in the cases supposed take into consideration the benefits derived? because if they ought not, to take that into consideration, we find the legislatures permitting—*aye requiring*—them to do so, and therefore the Legislature should be restrained from legislating on that subject contrary to the interests of the people. Let us restrict legislation on this subject I say. We should restrict them, because corporations have long purses and know how to use them effectually. He who has sat here and seen our Minnesota Legislature act, knows what can be done, and to him I have nothing to say. To him who has sat in the Legisla ture of other States and seen them act, I have nothing to say. But to those who have never sat and seen the practical workings of legislative bodies, I say that these corporations hardly ever fail to get from Legislatures what they

wish. The Legislature is surrounded by a net-work of influences which always prove efficacious. But such a provision as I have proposed has not been inserted in Constitutions before, says some one, and therefore we should not insert it here. The world is growing more wise and wicked every day, Mr. President. Railroads did not exist when most of the Constitutions were framed; these immense corporations did not exist, and therefore there was no necessity to provide for such an evil. I have just been informed however, that the Constitution of Ohio does contain such a provision. That I did not know before, but I know that the Constitution of Iowa framed the past spring has such a provision inserted in it, and with the consent of the Chair I will read it.

"Private property shall not be taken for public use without just compensation first being made or secured to be made, to the owners thereof as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantage which shall result to said owner on account of any improvement for which it is taken."

Ohio and Iowa have railroads in them, and they have felt the influence of these corporations and they have made provisions to guard against their effects in future.

Now as to the thing itself, is it right or is it wrong? I do say in the first place, that unless at the time a railroad passes through our Territory we derive a great benefit from the road, we are great losers by the road? Why? Is not every real estate holder in this Territory to-day suffering from the railroad grant which has been made to the Territory? Has it not checked emigration to a very great extent? Has it not prevented our Territory from being filled up? Has not the mandate come from Washington that no more declaratory statements of pre-emptors shall be filed for four months to come, and no pre-emptions shall be made on declaratory statements made for four months past? Now to make us as good as we would have been, had not the grant been made, we must derive an immediate benefit at the time the roads are built and go into operation?

Another proposition is that this grant of land to the Territory of Minnesota was made for the people of the Territory of Minnesota, and not for railroad corporations living without the Territory. It was made for those here who live by the cultivation of the soil; it was made for Minnesotians. The very railroad companies which have got hold of this grant, will make themselves rich by it; and does it come from such a body of men, with good grace, to say to the farmer whose farm is partially destroyed by the road, that he has reaped an advantage from it, and that such advantage must be deducted in estimating the amount of damages he sustains? I say it comes with a bad grace from them. If they are not to be made rich by it, why did they seek the grant with such avidity? Why did they expend so much money to get it?

To see how this matter works, take an illustration. A and B own farms adjacent. The road runs through the country and across A's farm and cuts off ten rods wide for perhaps half a mile, or what might be worse cuts off a strip of thirty rods in width from his farm. Now he has his crops to protect and he must go to the expense of fencing, if perchance he is so fortunate as to be possessed of ready cash to do so, which many of our farmers have not, for it costs a great deal of money where timber is so scarce. But whether he has or not, it does not change the principle.

Mr. NORTH. The law of the Territory requires the road to build those fences.

Mr. WILSON. Some may be required to do so, but I think not all. I do not doubt that the gentleman states correctly as far as he has any information, and I am not so well informed as to speak certainly on the subject.

Mr. NORTH. My impression was that there is a general provision to that effect.

Mr. WILSON. Whether that be so or not, let us proceed, for though it be so, the case is not much better. The company appoints a man, the individual whose property is taken, appoints another, and they two appoint a third, to assess the damages. Well, he may have two or three hundred acres of land, and may have ten or fifteen acres cut off, and does not leave his farm in good shape. But, says the company, what he has left us is worth double what it was before—for you know that at the time a Railroad is run through the country everybody has a mania about Railroads. Say they, his farm is worth thus cut up, double what it would have been if the road had not run through the neigh-

borhood. Therefore "my good man, you are "not entitled to any damages whatever." Look at the justice of this thing—or rather let us look at the injustice of it—for there is no justice in it. In the first place it is not for the Railroad monopoly to rise up and say you have suffered no damages whatever. Though your house may be separated from your barn, and both from your spring or well —yet the nominal value is now greater. That corporation sought for the building of the road, and they are to be made wealthy by it, and if any advantage is to be derived from the rise of property, the actual settler and owner should be the one to benefit. He should not be required, contrary to his will, to take his pay for actual damages—in nominal benefits.

Mr. NORTH. Will the gentleman permit me to read a clause from the statute upon this subject of fences?

Mr. WILSON. Certainly.

Mr. NORTH. The act is in these words:

"All the different companies mentioned in this act shall construct and maintain a good substantial fence four and one-half feet high on both sides of their respective roads, and shall construct and maintain cattle guards wherever the same may be necessary, sufficient to keep cattle, sheep, horses and hogs from off the track of said road, and shall be liable for all damages sustained by any person by reason of any neglect to keep and maintain such fence and cattle guards in good repair. Said company shall make and keep in repair such farm crossings as shall be necessary to accommodate the several land owners through which the said roads pass."

Mr. WILSON. Well that makes it a little better for the farmer, but how much? When do they make those fences? Not when they get the grant, and the road is laid out, but when they have completed the road, so that they may not run over cattle. But where are our poor farmer's crops during that two or three years? He must have the fences made himself for his own protection. Or shall he bring a suit against the company? What chance has a private individual in a law suit against a corporation of that kind? They care nothing for suits, and they have money enough to defeat him by protracted litigation. At any rate it does not meet the wants, and if it does, it meets it only *pro tanto*. Is not the man's farm very materially injured thereby? And why should he suffer any more than his neighbor whose farm is not thus injured and who yet receives an equal benefit with himself? And why should he not be paid the amount of those damages? There is no reason but because these Railroad Companies have the purse to buy up the Legislature to pass such laws as they want.

Interest very essentially affects our views of things. We see things in a different light when our interests are at stake. And here let me say that I do not mean to apply these remarks to my friend from Rice county (Mr. NORTH) who spoke before me, because I believe he is honest, and will act purely, whether he is interested or not, but I do say that there are many in this Hall who are interested in Railroads to a great amount. Who they are I may not say. But every member who wishes to do right in this matter must look at the subject thoroughly before it is acted upon. I hope they will act upon it for the benefit of the people, and against these monopolies, which we will all curse from the bottom of our hearts before ten years roll around. If you are not willing to have your land cut up, and if you are not willing your land should be cut up, you should not be willing to see your neighbors so cut—diagonally or otherwise—and twenty, thirty or forty acres taken out, and have it said to you that you have sustained no damage. You should vote for the insertion of this clause in the Constitution.

But gentlemen upon the other side say, "that our Legislatures have passed such laws "already as those, I fear, and we cannot "repeal them." Let us then put a stop to it altogether in this Territory. These charters will be modified and changed hereafter, and some others will be taken in their stead, and let it be understood that hereafter there shall be no more such practices.

I feel upon this subject. It is a matter of right, as I estimate it. We have wagon roads by the sides of our farms, and Railroads running through them, and our farms may be literally ruined and we get no damages whatever. Now gentlemen, just consider who should pay for these damages; consider for whose benefit this Railroad grant was made. If the Congress of the United States made a donation of land, it was for us, and

not for Mr. Broker in Wall Street, New York, nor for Minnesota speculators—not for any Railroad corporation, nor for any favored class; but for ourselves, individually and collectively. And it is not for them to say it benefits us, and hence we shall have no damages where they appropriate to themselves and disfigure our farms. They have no right to say because the United States enriched them, therefore they may impoverish us. They are to be made rich by the grant, and why should the poor farmer be made to suffer, and they have all the benefit? Judging of the future from the past, our legislators cannot be trusted. Therefore, let us stand up for the right and insert the amendment.

On motion of Mr. DAVIS, (at twelve o'clock and thirty minutes) the Convention adjourned.

SIXTEENTH DAY.

THURSDAY, JULY 30th, 1857.

The Convention met at nine o'clock, A. M.

Prayer by the chaplain, Rev. E. D. NEILL.

The journal of yesterday was read and approved.

REPORTS OF COMMITTEES.

Mr. CEDERSTAM, from the committee on the Elective Franchise, made the following report which was read a first and second time, and laid on the table to be printed, viz:

SEC. 1. Every white male inhabitant of the age of twenty-one years and upwards, (excepting persons under guardianship—persons of unsound mind) who shall have resided in the State six months, and in the town, ward, or precinct in which he may claim the right to vote, ten days next preceding any election, shall be entitled to vote at such election; if he be a *Citizen of the United States*, or if he has been an inhabitant of the United States for two years next preceding the election at which he may claim the right to vote, or if he shall be an inhabitant of this State at the time of the adoption of this Constitution: *Provided, always*, that no person of foreign birth—and not a citizen of the United States—shall be a qualified elector until he shall have declared his intention to become a citizen in conformity with the laws of the United States on the subject of naturalization.

SEC. 2. It shall be the duty of the Legislature to provide by law at its first session that lists of the names of qualified electors shall be used at all elections required by this Constitution, and likewise to provide as to the manner in which said lists shall be made out and used, and the presiding officers at said elections shall not be held answerable for refusing the votes of any person whose name is not found on said lists as required by law.

Mr. ALDRICH, from the standing committee to whom was referred the report for the organization of the Executive Department, reported back the same as correctly engrossed.

Mr. COLBURN, from the committee on Leave of Absence, made a verbal report, recommending that Mr. CEDERSTAM have leave of absence until Tuesday the 4th day of August.

Leave was granted.

COMMITTEE ON COAT OF ARMS, &C.

Mr. BILLINGS moved that a committee of three on a Coat of Arms and State Seal, be appointed by the Chair.

The motion was agreed to, and thereupon the PRESIDENT appointed Messrs. BILLINGS, LOWE and BOLLES.

PREAMBLE AND BILL OF RIGHTS.

Under the regular order of business the Convention proceeded to the consideration of the report upon the Preamble and Bill of Rights,—being the unfinished business of yesterday—the pending question being on amending section thirteen by adding thereto the following:

"And the jury or commissioners assessing the damages, shall not take into consideration any advantage which may result to the owner on account of the improvement for which it was taken."

Mr. PERKINS. I move to amend the amendment by striking out the words, "the "damages," and inserting "such compen- "sation."

I offer the amendment, (though I am opposed to the whole thing,) for sundry reasons. One is that it is a matter which properly belongs to the Legislature. That is an objection which has been frequently urged here, and the gentleman from Winona has urged it as frequently as anybody else. I think it is a good and valid objection generally. Such matters should have no place in our Constitution.

I object to it still further because I think the amendment goes further than this Convention should go, and I may say that it goes further than any Convention ever has gone.

The gentleman from Winona (Mr. WILSON) read yesterday from the Constitution of Ohio, as sanctioning such a provision. It strikes me, upon reading that section myself, that it carries no such sanction with it, and that the Constitution of Ohio, in fact, goes no further than the Constitution of the United States and the Constitutions of all other States. It does sanction the idea that the commissioners in assessing the damages a man sustains, shall not offset the *benefits* which accrue to him from the public improvement. It is however declaratory of the principles which the courts have declared time and again. I recollect a case which occurred in Vermont, where there is a statute which declares that the commissioners in assessing the damages, may take into account the benefits which accrue to the individual also. It was contended that that statute was unconstitutional, as being in violation of that clause in the Constitution of the United States which provides that no man's property shall be taken for public use without just compensation being made. The case was carried up to the Supreme Court, and the court decided that it was in conformity to the Constitution of the United States, and that *damages* and *compensation* were different things, and that when property is taken for public use, it must be compensated for in *money*, and that it was unconstitutional to pass laws to provide that so far as the *compensation* is concerned, the benefits shall be offset. The courts have frequently decided that this compensation means compensation in money, and the benefits which accrue cannot be offset. It seems to me that that is the right principle, and that the Constitution does not go any further than that. The Constitution of Ohio does not say that in assessing the *damages*—which the courts say is a different thing from the actual value of the property—the benefits shall not be offset, but it uses the word "compensation." It may be well enough to settle in the Constitution a principle which has lead to considerable discussion in the courts, but I am unwilling to go to the length which the gentleman from Winona wishes to go. I think that when a man's property is taken, he shall be compensated for the actual value, but if he claims damages beyond the actual value of the property, the benefits which accrue shall be offset. It does not seem to me a good argument that some other person's property is benefited as much as his whose property is taken, because you are here establishing a universal rule. I think it is better for us in framing our Constitution, to follow universal precedents, and to adhere to the land-marks laid down by the Constitution of the United States.

The amendment to the amendment was not agreed to.

Mr. SECOMBE. As the principle contained in this amendment has been thoroughly discussed, I call for the yeas and nays.

Mr. WILSON. I think there are other gentlemen in the Convention who desire to make some remarks upon this subject, and I hope the gentleman will withdraw his call, and allow them to have the same privilege others have enjoyed.

Mr. SECOMBE. I do not suppose that the call for the yeas and nays will preclude them.

The PRESIDENT. The Chair is disposed, if the yeas and nays are ordered, not to hear any further discussion.

Mr. SECOMBE. I am not disposed to cut off further discussion, and I therefore withdraw the call.

Mr. McKUNE. I move a substitute for the amendment, and that is to strike out the word "therefor," in the original section and insert—

"First being made, tendered, or secured to be made to the owner."

Mr. BATES. I am opposed to the amendment, and to everything which has been offered, thus far, to change this section. I believe it is right as it now stands.

There has been much said here of the peculiar circumstances in which we are placed. We are told that we are placed in such peculiar circumstances that we are obliged to leave out of the Constitution everything upon which there is much difference of opinion. Now we know that this amendment introduces a question on which there is great diversity of opinion, and which will meet with decided opposition from many quarters. Upon that ground I am opposed to it, if there is any force to be given to that objection.

I am opposed to it also upon the ground that it introduces a species of legislation into the Bill of Rights about which so much has been

said. If there is anything which can be called legislation, that amendment is such. What does the original section say? "No "private property shall be taken for public "use without just compensation therefor." Is not that all we want? Does a man want unjust compensation for his property? If he has a just compensation, is not that sufficient? If a man receives the worth of his property, he is as well off as he was before.

But say gentlemen, damages may accrue. But if damages are to be taken into account is it not just and proper that the profit should be taken into account also? If a man receives the value of his property and then claims that damages should be paid in addition to that, is it not equitable that advantages should be offset? I hope that the section will remain as it now is.

Mr. ROBBINS. I am in favor of the amendment offered by the gentleman from Winona. It seems to me that if a farmer owns a farm which to-day is worth ten dollars an acre, and a railroad, by passing through it, cuts off twenty-five acres, it is no more than fair and just that he should have the actual value of the land in damages. Here is a man who owns a farm worth ten dollars an acre. A railroad passes through it, and makes the land worth twenty dollars an acre. Now if I understand that amendment to mean that when damages are assessed, that land should be calculated at twenty dollars an acre, I should be most decidedly opposed to it. But such is not its effect. It only gives the value of the land, before the road was run through it, as damages.

Mr. NORTH. I am most decidedly opposed to the amendment of the gentleman from Winona, for the reasons assigned by the gentleman from Minneapolis, as well as those assigned by others. It seems to me that if there is any force in the argument that we ought not to go into special legislation in the Constitution, that objection certainly applies here. If there is any force in the argument that, under the peculiar circumstances in which we are placed, we should not introduce into the Constitution a new principle which has not heretofore been introduced into any Constitution, it applies here, when we attempt to adopt a principle which will strike a large portion of the people of this Territory as very unjust. I know that such a provision as that would be regarded as unjust in the extreme, and it seems to me that it bears that injustice upon its face. For the provision applies to all kinds of public improvements, such as common roads, and Territorial roads as well as to railroads. These gentlemen harp upon railroads, as though they were the only roads to which this principle was to apply. They are entirely mistaken. According to that provision, every man who has a common road laid out through his farm, could tax the people of the county to pay for it, even though he had petitioned for the road for his own accommodation. Look at the effect of the amendment to the amendment. Here a man wants a road laid out through his farm, and petitions for it, and then that road cannot be laid out until he is paid for the land, and the persons appointed to assess damages must appraise the land at its full value, regardless of the advantages the individual may derive from it even though he may have been willing to give ten times the value of the land for the purpose of getting the road.

The section as it now stands provides for just compensation. Do we want more than is just? It is a provision sanctioned by long continuance in the Constitutions of other States, and this new provision is an innovation which ought not to be countenanced at this time.

Mr. McCLURE. I am opposed to the amendment to the amendment, and also to the amendment itself. The section simply states that private property shall not be taken for public use without just compensation—without making any distinction between real and personal property. Justice is to be done to the individual whose property is taken, and in my judgment we cannot insert an amendment so as to do justice without we draw a distinction between personal and real property, from the simple fact that a clause inserted here which would apply to personal property, could not be applied to real property.

In my judgment it ought to be left to the Legislature to say what would be just compensation. This argument has proceeded upon the supposition that only real property would be taken. I think the section is right as it is, because it simply provides that just compensation shall be made, and in my judgment, if

the value of the individual's land is enhanced, something ought to be allowed to the individual or company who thus enhances the value.

Mr. STANNARD. I hope the amendment will not prevail. I am satisfied that it partakes too much of legislation, and I do not believe that under the Constitution of the United States that clause would be of any avail. An appeal may be taken from the decision of the persons or commissioners appointed to assess the damages, and when that appeal is taken and it goes into another tribunal, you will have to take for a guide the decisions of the courts upon the very same clause which is contained in the section which is proposed to be amended—and that is upon the question of just compensation.

Mr. WILSON. I think it is singular, Mr. President, that some gentlemen in this Convention should press their objections upon the ground that this partakes of legislation. I say it is singular when they have before them the reports of some eight standing committees, to whom they have referred the different parts of the Constitution, and in every such report there is not only that which *savors* of legislation, but is legislation far more than this. I think in the face of that fact, it is singular that this objection should be pressed—and pressed too for the purpose of producing effect and having an influence upon the decision of a question which they do not want to meet fairly and squarely. The position I take is this; where there is danger, real danger that the Legislature will do wrong, there throw restrictions around it in the Constitution. Where the people's rights are likely to be trampled upon by the Legislature, there restrict the Legislature by the Constitution. When such a case as that arises, no man will deny that the framers of the Constitution are bound to insert a restrictive clause.

Now let us put this matter upon that basis. We all know that Legislatures have been inclined to favor monopolies, and disregard the rights of the poor man, and the men holding property throughout the country; that they have done it and have continued to do it, and that the railroad companies have always got all they wanted and all they asked for. I need not quote precedents. Gentlemen themselves have quoted precedents enough and they are in my favor. They have themselves shown that the Legislature will do that which is wrong in this respect. Now when we have the evidence before us in our own Territorial laws, that the Legislature will sanction such a course of proceedings, I say we are bound in conscience to restrict them.

One word as to the argument brought up here by the gentleman from Minneapolis (Mr. BATES) and responded to by the gentleman from Rice County (Mr. NORTH). I spurn and hate all arguments such as that we shall have the railroad influences down upon our Constitution; that it is impolitic to do this. If the railroad interest is against the interest of the country, then down with the railroad interest, and up with the people.

Mr. NORTH. The gentleman will allow me to correct him in one point. I am not aware that the gentleman from Rice County responded to any such sentiment, or that the gentleman from Minneapolis uttered it.

Mr. WILSON. The gentleman from Minneapolis said that we should get the railroad interest arrayed against us; and the gentleman from Rice said he responded to it.

Mr. NORTH. I said that a very large portion of the people of the Terrifory would be found opposed to it; and not the railroads, and the railroad companies.

Mr. BATES. I remarked that a great deal had been said in this Convention in regard to the peculiar circumstances in which we are placed, and that much had been said that we could not act out our honest sentiments and convictions of duty for fear of arraying this or that interest against us; and adopting that principle of action, I thought it wrong to insist upon this amendment here, because it did introduce into this Constitution a question upon which there were opposite views, and to which a great many of our people are strongly opposed.

Mr. WILSON. Yes sir, just so—"strongly "opposed" by a great many people of this Territory, and I understood the inunendo as referring to those who had an interest in railroads, and the gentleman from Rice County said he heartily responded to the speech of the gentleman from Minneapolis.

Mr. NORTH. I stated clearly wherein I responded to the gentleman from Minneapolis so clearly that nobody need misunderstand me.

Mr. WILSON. I did not desire or intend to put the gentleman in a false position, or to misconstrue his language. Now, sir, I say I have no respect for such a position as that, though I may for the men who utter them, at times. Such a consideration will never influence me one particle. If this is the beginning where will be the end of it. If in one short year these corporations have got this strong hold, when grown to manhood what will they be? Their grasp will be like that of the giant, and we will fall beneath them.

But, says my friend from Chisago county, this amendment will not make any difference. The construction of the courts will be just the same as it would be without the amendment. Now I am astonished at such an assertion, and that, too, from one for whose legal opinion and sound judgment I have great respect and confidence. When he says that, he says it in direct opposition to the declaration of the Legislature in several cases, and of the courts in cases without number. I do not know a single State in which the question has not bred a great deal of discord, and so much so that they have been driven to the necessity of putting such a provision as this into some of their Constitutions. It has been said that the State of Ohio has not made any such rule as that which I propose. Let me read from her Constitution. To make assurance doubly sure, they inserted it in two places. In the Bill of Rights they say:

"Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war or other public exigency, imperatively requiring its immediate seizure, or for the purpose of making or repairing roads, which shall be open to the public without charge, a compensation shall be made to the owner in money, and in all cases where private property shall be taken for public use, a compensation therefor shall be first made in money, or first secured by a deposit of money; and such compensation shall be assessed by a jury without deduction for benefits to any property of the owner."

Then turn over to the article on corporations and you find this:

"The right of way shall not be appropriated to the use of any corporation until full compensation therefor be first made in money, or first secured by a deposit of money, to the owner, irrespective of any benefit from any improvement proposed by such corporation."

And I will say now that I should prefer to have incorporated with my amendments a provision for full compensation in money, or a deposit in money; for I do not want these corporations to pay us any thing else than money. They can law an individual any length of time, but if they make a deposit in money, there is no use in lawing it.

Such are the provisions of the Ohio Constitution. Now I will read again what I read yesterday from the recently formed Constitution of Iowa:

"Private property shall not be taken for public use without just compensation first being made, or secured to be made, to the owners thereof as soon as the damages shall be assessed by a jury, who shall not take into consideration any advantage which shall result to said owner on account of any improvement for which it is taken."

Mr. BILLINGS. I would inquire of the gentleman if that Constitution has yet been adopted.

Mr. WILSON. It has not yet, but I suppose there is no doubt but what it will be adopted. It is a Constitution just framed by a people who have felt the iron heel of these railroad monopolies. Gentlemen say that there are no precedents for such an article. I show them that there are precedents, and they would be more numerous were it not for the fact that until recently there has been no necessity for such a provision. Most of the Constitutions were framed when there were few or no railroads. We are not then taking the initiative in this matter, but are following where others have found it absolutely and imperatively necessary to go.

But say some, if a man's damages are to be assessed, of course his benefits should be reckoned too. I answered that point yesterday,—and I answered it to my satisfaction. It is not for these railroad companies who are being made wealthy by this munificent grant of land made by the United States for our benefit—not for the benefit of railroad companies—to say to us that we shall not reap the benefits of that grant. It was made for the benefit of you and me, and all of us Minnesotians, and it does not come with good grace from those companies to use such language to the farmers and real property holders of the country, whose acres they take for their own benefit. And if the people of the coun-

try are to bear the expense of building these roads, why should they not bear those expenses equally, and not have it shouldered upon a few men who are so unfortunate as to have the road run diagonally through their farm.

I have made a little calculation. Within the space of one mile we will have sixteen farms—and I would rather be a mile from the road than upon it—and each of these sixteen farms is benefitted as much as the particular farm through which the road runs, and now I ask why should one bear all the damages while there are fifteen others who reap the benefits equally. That is all wrong.

But I must say that I cannot appreciate the argument of my friend over the way, that the amendment does not apply equally to real and personal property. Will such an argument as that satisfy any constituency when their farms are run through and cut up, and thus are compelled to build fences to protect their crops, or wait until after the roads are ready to be run? For those roads do not protect a man's crops at first.

Mr. NORTH. The gentleman misapprehends the statute requiring the company to build fences entirely.

Mr. WILSON. But there are no fences until the roads are built.

Mr. NORTH. The gentleman claims that to be a statute provision, which is not such at all.

Mr. WILSON. I feel an interest in this matter, and the country feels an interest in it too, and it will be a poor excuse for us to say to them that the Bill of Rights is not the proper place for any such provision. I am in favor of any provision which accomplishes the object, I care not what its wording may be. Give us something to protect ourselves with against these monopolies. Give us something which will grant us equal rights all over the country. This is a matter in which we are following in the lead of others, and it is something which I think the country requires.

If my proposition then, be absolutely just, vote for it. It is no more legislation than a thousand other things which are in our Constitution. It is no more legislation than the insertion of a clause protecting the rights of property of married women. I want a provision which will protect married women, and children, and old men; not one which will be confined in its operation to married women only. How many more will this clause protect, than that clause which declares that involuntary servitude shall never exist in Minnesota? Let us be consistent. Let us not in legislating upon particular points, lose sight of others quite as important. I do not believe men will be governed by their interests here, but let me tell you it is hard to see through a gold dollar, and there are in this Hall a great many men interested in Railroads. I say our interests imperceptibly warp our judgments, and it behooves those who are not interested to stand up and see what they are doing.

Mr. SECOMBE. Having expressed myself explicitly upon this question the other day, I did not intend to say anything more, but the gentleman from Winona has taken such a course that I deem it my privilege, if not my duty, to make a few further remarks. When the gentleman made his first attack upon Railroad corporations,—when he lugged it into the argument himself for the first time; when he set it up as a windmill against which to direct his batteries, I supposed he was setting it up just from his natural love and desire of setting it up and then battering it down again. But I believe the gentleman now really begins to mean what he says.

The gentleman says he wants them to pay us the money. I really myself begin to believe that the gentleman, from his proximity to Winona, from which he hails, knows something about this question, and is really afraid that he is going to be benefitted by one of these outrageous corporations. I do not know that it is so, but the gentleman himself says that he feels a very great interest in the matter. Now the gentleman takes the ground that other gentlemen here should not be inconsistent. I have no objection to the gentleman from Winona being inconsistent. I have no objection to his defending the doctrine that we should not legislate in this Constitution. I have no objection to his advocating that doctrine upon one subject, and then turning right about face, and advocating a contrary doctrine upon another subject. But when he does so, I do not want him to charge other people with being inconsistent, and complain of that.

Now, Mr. President, I take it that it is not necessary that all the members of this Convention should vote upon the merits of the principle which is contended for here, although I, for one, would not be afraid to risk this matter upon that very question of principle. I do believe that this Convention does consist of men who have the natural principles of justice and equity in their hearts, and in their heads; and that if the sense of this Convention should be taken on the very question whether, when a man is benefitted, almost beyond comparison perhaps, by a public improvement, he should require the full amount of damages he may sustain, they would decide it in the negative. But at the same time I contend that gentlemen here, who have all along strenuously objected to special legislation in this Constitution, have the right to put their objection upon that ground. I am not one of those who have been so particularly opposed to incorporating into the Constitution some matters that might be left to future legislation. The gentleman from Winona has been one of those. That gentleman not content with flinging out his general slurs upon those who have been inconsistent, must need bring up again a matter which has once been decided by this Convention, and by a vote which I thought should put the gentleman to the blush. I mean the subject of the recognition in this Constitution of certain rights of married women. When that subject was up for consideration, the gentleman was very much opposed to it, not only on principle, but because it was matter of legislation. But now the gentleman undertakes to discriminate by saying that he would legislate in this Convention upon such points as we believe—judging from the past action of the Legislature—will not be sufficiently protected. Now I ask the gentleman what comfort he can get by his allusion to the subject which was before the Convention yesterday, upon that point? Does not past legislation show that that particular class never have had their rights; and does it not show that this doctrine of inconsistency, like birds of a certain kind, go home at night to roost?

I hope gentlemen who are opposed to special legislation will vote against this amendment, and that those opposed to it in principle, will vote against it, without regard to any imputations thrown out by any gentleman.

Mr. NORTH. One word Mr. President, in regard to the insinuations which have been thrown out against certain Railroad men in this Convention. I suggest whether it is not ungenerous and unmanly to throw out insinuations of that kind so frequently as they have been from that quarter, in regard to this subject. I had supposed there were interests to be guarded upon all sides. I supposed that the public interest in regard to common roads, was to be looked to, as well as those of Railroad companies, which the gentleman from Winona seems to dwell upon incessantly. He dwells upon the interests of the poor man, through whose lands the Railroads pass, and the immense wealth of those Railroad corporations. I believe it is a fact that there are some wealthy land holders, as well as poor land holders—some wealthy land proprietors as well as wealthy Railroad companies, and if I were to judge from the long speeches which are made here, I should suppose there were some very special interests to be fought over in this Convention. And I would suggest that gentlemen should not throw stones when stones may be thrown in the other direction. It is possible that there may be interests quite as much upon one side as upon the other.

Mr. COLBURN. I hope the amendment will not be adopted. Notwithstanding the eloquence and ability with which the gentleman has urged it, I have failed to see the necessity for it. It seems to me that the thirteenth section of this bill is all that is required for the protection of the people. The reasons urged for it, are based principally upon the assumption that our future legislatures are not to do their duty—that they are to be corrupted and bought, as the gentleman from Winona expresses it, by the long purses of our Railroad corporations. I am not willing to act upon that presumption. We have, it is true, the right to recognize the possibility of Legislatures being corrupted and bought, but when we assume that they are going to be corrupted and bought as a matter of course, and assume that it is our duty to restrict Legislatures upon that ground, it seems to me that it is going too far. I am willing to leave the details of this matter with

the Legislature, and also with the commissioners or jurors who may appraise the damages.

But I object to the amendment upon another ground. It has been my fortune to live in a section of country where I have had an opportunity to contrast the prosperity of those States which have pursued a liberal course towards Railroad companies, and those which have pursued an opposite policy. The State of New Hampshire has lost millions of dollars in consequence of the policy she has pursued towards Railroad corporations while on the contrary Massachusetts, an adjoining State, has gained millions of dollars by an opposite policy. And I undertake to say that there is not a State in the Union which has adopted a more liberal policy in that respect than Massachusetts, and there is not a State in the Union which has derived more benefit from Railroads, nor a State which is more properous than Massachusetts. How was it in New Hampshire? The same arguments were urged in her Legislature, as have been urged here to-day, by the gentleman from Winona. Farmers and agriculturalists were to be ruined, and they placed every restriction upon Railroads. Those arguments for a time prevailed, and they refused to pursue any thing like a liberal course. The consequence was that roads were built in a western direction before they were in that State, and the farmers soon found that they were unable to compete with western agriculture, because the expense of transportation was so great. They were, at length, compelled to abandon their illiberal policy and retrace their steps, and that State is now begining to recover from the injury which she had inflicted upon herself.

Now, Sir, I am not interested myself in any Railroad corporation, but, I live in a county in which Railroads are desirable, and we hope a road will be built through that county in a certain direction, and I do not want anything put into this Constitution which will prevent the building of such a road. I prefer to leave this matter with the Legislature so that they can give us sufficient encouragement. This section gives us all the protection we want.

The gentleman also refers us to the provisions of the special session of the Legislature, which assembled to take into consideration the disposition of the land grants which were made by Congress, and from his remarks I judge he would have us infer that whatever he would have us put in here, would affect the persons whose lands were taken for those roads. That is not the case. It will have no effect upon those corporations, but its effect will be confined to corporations hereafter formed to build roads, without the aid of government. Such a provision would prevent the building of roads which have not the benefit of the government grants of land, and that is an additional reason why I do not want it inserted here.

Mr. McKUNE demanded the yeas and nays upon the amendment to the amendment.

The yeas and nays were refused.

The question was then taken on the amendment to the amendment, and was not agreed to.

Mr. WILSON. I wish simply to say, that I do not, in the least believe, that gentlemen who were interested in Railroads, intend to be influenced by that interest, but I do know that our interests warp us. As to my own interest, I may say that I have none, and if I could have any, that interest would be in favor of the corporations.

Mr. SECOMBE called for the yeas and nays upon the amendment.

The yeas and nays were ordered, and the question being put, it was decided in the negative, yeas twenty-two and nays thirty-two as follows:

Yeas.—Messrs. Anderson, Baldwin, Bartholomew, Cleghorn, Coe, Coombs, Davis, Duley, Eschlie, Folsom, Gerrish, Harding, King, Kemp, Mantor, McKune, Messer, Peckham, Robbins, Walker, Wilson, and Sheldon.—22.

Nays.—Messrs. Aldrich, Ayer, Balcombe, Bates, Billings, Bolles, Butler, Colburn, Coggswell, Galbraith, Hall, Hayden, Hudson, Hanson, Holley, Lyle. Lowe, McCann, McClure, Morgan, Murphy, North, Phelps, Perkins, Putnam, Russell, Stannard, Secombe, Smith, Thompson, Vaughn, and Watson.—32.

So the amendment was not agreed to.

Mr. BOLLES. I offer the following additional section:

"SEC. —. Liberal laws regulating capital punishment, should be enacted, but no law prohibiting such punishment shall be passed."

I have scarcely any expectation that this amendment will be adopted, yet I feel that I should not be doing justice to myself, or to

the people of the State of Minnesota, without having that question discussed and acted upon in this Convention. I know that in offering the amendment I go against the sentiment of a very large portion of the people of this community, as well as of others. Yet notwithstanding that, I know that I act in accordance with the judgment and sound reasoning of another respectable portion of community, not only in this Territory, but in other States. I know, sir, that the abolishing of capital punishment has proved deleterious in the localities in which it has been tried, and I know, also, that States which have made the experiment, have been anxious to restore capital punishment. Understanding these facts as I do, I submit the amendment, and I submit it in the proper place—the Bill of Rights. It is the right of the State of Minnesota to throw around its citizens just and wholesome restraints, and there is nothing which seems to me so wholesome, and so sure of producing a good effect, as to have it understood distinctly, by all individuals, that he who commits murder must suffer the penalty of death. No man commits crime, but, in the end hopes to escape punishment. Men do not go to work deliberately and commit crime, with the expectation of being brought to justice. The man who steals a horse and is sent to State prison, hopes to escape, if the time is long, and he can make anything by it. A man who commits murder, and under an imprisonment act, goes to State prison, suffers all the punishment which is inflicted on him. Men may say that he goes there for life. That may be, but it only puts him upon an exact equality with the man who steals a horse. He too hopes to escape. I have known instances where such criminals have escaped, and are now at large, and at liberty to commit the same crime again. But I will not pursue this train of argument but leave the matter with the Convention.

Mr. MANTOR. I offer the following substitute for the amendment:

SEC. —. The taking of life, either by hanging or otherwise, shall never be instituted as a mode of punishment for crime in this State.

In offering that substitute I am not unmindful of the variety of opinions which exist in our land with regard to this one question. It is a question which has been universally discussed in private and public, and by all classes, and by all parties. I am opposed to the amendment offered by my friend from Rice county, because I am opposed to capital punishment, and I can see nothing in reason or in right which should induce me to support that amendment. I can see nothing in it of a moral bearing upon community, which should induce me to give it my support, while I see many good reasons why I should not support it. I am convinced that more than nine-tenths of all the capital crimes which have been committed, the evidence of which now stands upon the records of our country, have been committed in moments of indiscretion, or in times of high excitement, and I am inclined to extend a liberal charity to a person who commits a crime under a sort of monomania, as it were. I am inclined to the belief, in looking over the records of the past, and contrasting them with the present, that there are less crimes committed now in proportion to the number of inhabitants, than there were fifty years ago. If we look for a moment back into the dark ages of the world, we find that the death penalty induced, in the community, a bad state of morals. And how was it brought about? Every man who has read the history of the past, knows that every man who committed a capital offence, was hung, not as criminals are hung now, but upon the gibbit, and the dangling bones of men have been seen to hang swinging in the air for weeks and months. Now I ask you, what was the state of morals at that time? I ask any gentleman if it was anything like what it is now? Like causes produce like effects, and if the death penalty is carried out, instead of producing a good state of morals, it will blunt the moral faculties of man. I said, the bones of criminals were seen dangling in the air for months, and it produced a very bad state of society, and it became necessary that some other mode of punishment should be inflicted; and finally the simple mode of hanging men was adopted. And what is the effect of the death penalty, even now? The records of every State produces evidence of this fact, that even under the very gallows, numerous murders have been committed; and consequently it is a bad argument for us that the

death penalty should be inflicted for the purpose of creating a good state of morals in society. On the contrary, it has the effect of hardening men in crime. I would, then, like to see capital punishment stricken from our statute books, and a law passed that would give the culprit, who in a moment of excitement, should take the life of one in my family, time meet for repentance.

Mr. MURPHY. I move the previous question.

Mr. ROBBINS. I second it.

Mr. BILLINGS. I wish to suggest an amendment, and I hope the gentleman will withdraw his call.

Mr. MURPHY. I withdraw it.

Mr. ROBBINS. I rise to a point of order. The gentleman cannot withdraw his demand for the previous question.

Mr. BILLINGS. I wish to offer an amendment for the consideration of the gentleman from Rice county, and I should be glad to have him accept it.

The PRESIDENT. It is not in order; unless the gentleman who made the call for the previous question, and the gentleman who seconded it, consent.

Mr. ROBBINS. I insist upon the previous question.

The previous question was seconded, and the main question was ordered to be put.

Mr. MANTOR. demanded the yeas and nays upon the substitute for the section.

The yeas and nays were ordered, and the question being put, it was decided in the negative; yeas nine, nays forty-four, as follows:

Yeas—Messrs. Aldrich, Bartholomew, Hall, King, Lyle, Mantor, North, Putnam, and Russell.—9.

Nays.—Messrs. Anderson, Ayer, Balcombe, Baldwin, Bates, Billings, Bolles, Butler, Cleghorn, Colburn, Coggswell, Coe, Coombs, Duley, Eschlie, Folsom, Galbraith, Gerrish, Hayden, Harding, Hudson, Hanson, Holley, Kemp, Lowe, McCann, McKune, McClure, Messer, Morgan, Murphy, Phelps, Perkins, Peckham, Robbins, Stannard, Secombe, Smith, Thompson, Vaughn, Walker, Watson, Wilson and Sheldon.—44.

The question recurring upon the section offered by the gentleman from Rice county, (Mr. BOLLES) it was put, and the section was rejected.

Mr. CLEGHORN. I move that section twenty-four in reference to dueling, be stricken out.

Mr. SECOMBE. Upon that motion, I move the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. NORTH demanded the yeas and nays upon the motion to strike out.

The yeas and nays were ordered, and the question being put, it was decided in the negative; yeas twenty-three, nays thirty-two, as follows:

Yeas—Messrs. Aldrich, Balcombe, Bates, Cleghorn, Coggswell, Duley, Eschlie, Galbraith, Hall, Hanson, Kemp, Lowe, McKune, Morgan, Mills, Murphy, Perkins, Robbins, Russell, Stannard, Walker, Watson and Wilson—.23.

Nays—Messrs. Anderson, Ayer, Baldwin, Bartholomew, Billings, Bolles, Butler, Colburn, Coe, Coombs, Davis, Folsom, Gerrish, Hayden, Harding, Hudson, Holley, King, Lyle, Mantor, McCann, McClure, Messer, North, Phelps, Putnam, Peck, ham, Secombe, Smith, Thompson, Vaughn, and Sheldon.—32.

Pending the call of the roll—

Mr. GALBRAITH said: In regard to this matter I think there is a misunderstanding. There should a be a provision similar to this somewhere in the Constitution, but I do not think this the proper place for it, and for that reason I vote in the affirmative.

Mr. PERKINS. I also wish to say that while I am opposed to this in this Bill of Rights, I do not wish it understood that I am opposed to it in the Constitution. Therefore I vote "aye."

Mr. RUSSELL. I believe that the provision should be in the Constitution, but I think it is in the wrong place here.

The PRESIDENT then announced the result of the vote, as above recorded.

Mr. HAYDEN. I now move the previous question upon the adoption of the Preamble and Bill of Rights.

Mr. GALBRAITH. I hope the motion will not prevail. I would suggest whether it would not be best not to act finally upon this matter until it has passed through the hands of the committee upon Arrangement and Phraseology for Engrossment. Should we adopt these articles finally one by one, or refer them all to that committee and when they report them all back, take the question on them all at the same time? In that way we shall avoid the possibility of one conflicting with the other.

The PRESIDENT. Discussion is not in

order upon a demand for the previous question.

Mr. HARDING. I withdraw the demand.

Mr. NORTH. I move that the report as amended be re-committed to the committee for the purpose of having it engrossed.

Mr. COLBURN. I would enquire whether, when it is reported back from that committee it would not be open to amendment?

The PRESIDENT. The Chair is of opinion that further amendment would not be in order.

Mr. COLBURN. If that is so I have no objection to its re-commitment.

Mr. GALBRAITH. We had better not be in too much haste. Why have this report engrossed now, so as to preclude all further amendment? We may be compelled, when all the reports are adopted, to go to work and fit the different parts together, and in doing so, it may be necessary to modify some of them. There may be surplusage in this one or that, and it is impossible to tell now how the next one may fit to it. I think the whole of them should be taken into view at one time. Are gentlemen willing to have the report engrossed now, and all opportunity for amendment cut off? We have had amendment upon amendment made to this report, and I ask any gentleman if he can tell now exactly how the matter stands? Should the matter not be left open so that it can be corrected and compared with the balance of the Constitution?

Mr. HAYDEN. I wish to know if the gentleman means to be understood to say that the best course for us would be not to adopt finally any of these reports, until they are all placed before us?

Mr. GALBRAITH. I do.

Mr. HAYDEN. It seems to me that this report is the foundation of our work, and that all subsequent parts of the Constitution should be in subjection to this, and made to correspond with it. It seems to me that the report should be sent to the committee for engrossment.

Mr. GALBRAITH. I wish not to urge this matter upon gentlemen, but I think there ought to be calm consideration before we take that course. I would say now, that I think there is in this Bill of Rights, that which is unconstitutional in itself, and it would not look well for us to send out to the people an unconstitutional Constitution; and if we engross the report now we cannot amend it in that respect. In the twenty-fourth section there is a clause which is palpably unconstutional. "Any citizen of this State who shall, "after the adoption of this Constitution, fight "a duel with deadly weapons, or send or ac- "cept a challenge to fight a duel with deadly "weapons either within this State or *out of it*, "&c., shall be deprived of holding any office "of profit or trust under the State." Now, sir, those words, "or out of it" are wrong. I refer to the case of Mr. Bissell of Illinois, who now holds the office of Governor by virtue of the unconstitutionality of a similar clause in the Constitution of that State. We have no jurisdiction over the punishment of crimes committed out of this State. According to the language of the Illinois Constitution, Governor Bissell was ineligible to office, and dire threats were made against him by his opponents if he dare qualify for the office. But he did take the oath of office, and defied the Constitution, upon the very ground of the unconstitutional character of that article. Now there is no use of our going beyond what can be carried out. We may show our aversion to duelling, but do not let us show our aversion to the Constitution of the United States at the same time.

Mr. WATSON. The amendment which I offered to that section was intended to obviate that very difficulty, and I would like to see it made right now.

The PRESIDENT. The motion to re-commit takes precedence of a motion to amend.

Mr. NORTH. The provision of the Illinois Constitution is different from ours, and it is easy to see that a decision might be had under it, which is not applicable to us. The provision in the Illinois Constitution is as follows:

"Any person who shall, after the adoption of this Constitution, fight a duel, or send or accept a a challenge for that purpose, or be aider or abettor in fighting a duel, shall be deprived of holding any office of honor or profit in this State, and shall be punished otherwise in such manner as is or may be prescribe by law."

That was construed to apply only to the State of Illinois. But our provision is more broad in its application, and says whether he fight a duel either in this State "or out of it."

Mr. ALDRICH. I hope the Convention will be in favor of striking out the whole section, but if they determine not to do so, yet I hope they will not consent to send it out to the people in its present shape. To show the unconstitutionality of that provision let me read a part of section eight of this same report:

"And no person for the same offence shall be put twice in jeopardy of punishment, &c."

Now suppose a citizen of Minnesota goes across into Wisconsin and fights a duel there, he becomes amenable to the laws of Wisconsin, and when he comes back he is to be punished again.

Mr. HAYDEN. I do not profess to be a lawyer, but I take a different view of this matter from what many gentlemen take. It has reference to fighting duels out of the State, and declares that no one fighting a duel, out or in the State, shall be eligible to office within this State. Suppose a man lives in Wisconsin and there fights a duel, and afterwards becomes a resident and citizen of this State, this clause would make such person ineligible to office in this State. I think that should be so.

Mr. SECOMBE. I do not think that upon either ground mentioned by the gentleman from Scott County (Mr. GALBRAITH) or the gentleman from Hennepin County (Mr. ALDRICH) that the section is unconstitutional. As has been observed by the gentleman from Rice County (Mr. NORTH) the decision, given in the Illinois case, was upon a very different foundation from the section under consideration here. It was there decided, as it was made a crime to be punished not only otherwise, but to be punished in this way, that it could only apply to the State of Illinois, consequently any act committed out of the State would not come within the provisions of the Illinois Constitution. The gentleman from Hennepin County contends that it would subject a man to punishment twice for the same offence. I differ with the gentleman. I do not believe that it is a punishment, which is proposed in this section—no more a punishment than it is a punishment to say that certain persons, as we have said in the report of the Committee on the Executive Department, shall not hold the office of Governor, unless they be citizens of the United States.

Mr. ALDRICH. Is it not probable that the Legislature of the State will hereafter pass laws punishing dueling?

Mr. SECOMBE. I would inform the gentleman from Hennepin County that I hope they will. If they do, then a person committing the crime of dueling will be punished once and only once, for it is no more a punishment, to say that a man who fights a duel shall not hold an office, than it is a punishment to say that a man, unless he is a citizen of the United States, shall not hold an office. We have said that no man shall be Governor of this State unless he be a citizen of the United States. Now we have a plenty of men in this Territory who will be punished by that provision, if that kind of legislation is to be construed as punishment. But it seems to me that it is not a punishment in any way or manner. It is merely giving to certain citizens privileges which we do not give to all citizens. It is a deprivation, to be sure, of the exercise of certain privileges.

Mr. CLEGHORN (interrupting). I rise to a point of order. As there is no question before the Convention, the gentleman is out of order.

The PRESIDENT. The motion before the Convention is a motion to commit.

Mr. NORTH. I withdraw the motion.

Mr. SECOMBE. I was discussing that point, and showing arguments why we should not commit. The only argument urged in favor of committal was that we have here a provision which is unconstitutional.

Mr. COGGSWELL. I renew the motion.

Mr. COLBURN. I desire to submit a motion for reconsideration, if the gentleman will withdraw his motion.

Mr. COGGSWELL. I am inclined to accommodate the gentleman, but I am still further inclined to accommodate the gentleman from St. Anthony (Mr. SECOMBE) and therefore I decline to withdraw my motion.

Mr. NORTH. My reason for withdrawing the motion was that some felt that some other motion should be considered in regard to this report. I did not desire to take any advantage, or cut off any gentleman from the privilege of speaking.

Mr. GALBRAITH. The only thing I wish is, that all parts of this report shall be consistent, and I think that the engrossment of it will cut off necessary corrections.

The PRESIDENT. The Chair would suggest that there is a difficulty in reference to this matter, which the Convention might as well overcome now as at any other time. We have no engrossing Clerk or engrossing committee, which deliberative bodies of this kind usually have. The Chair would suggest the propriety of re-committing this report to the committee from which it came, for engrossment. If it is referred to that committee for engrossment, they will retain it, until all the reports have been considered, and then when they are reported back, the Convention can go into committee of the Whole on all the reports, and then report them back for final action by the Convention, and then send them to the committee on Arrangement and Phraseology.

Mr. HAYDEN. Do I understand that a reference of it to the Standing committee for Engrossment, brings it back with the privilege of amendment again?

The PRESIDENT. The re-commitment of a bill, unless it be for engrossment only, will put it in a situation which will require its consideration again by the committee of the Whole.

Mr. HAYDEN. I desire that it shall be re-committed to that committee for engrossment simply.

Mr. PERKINS. The sooner this Bill of Rights is placed beyond the reach of amendment, the better it will be, I think.

The PRESIDENT. The question will be upon re-committing the bill to the committee for engrossment.

Mr. COGSWELL. I have sat by quietly this morning and listened to the arguments which have been adduced both for and against certain sections in the Bill of Rights which the committee saw fit to report, and some of them have been pretty good, in my judgment, and some not so good. At the time we made this report, we did not consider it perfect by any means. We concluded to arrange it as well as we could, report it to the Convention, and let them make such amendments as they thought proper. If I have kept track of the amendments which have been made, some of them are pretty good, and some of them are not as good as the original.

In regard to this particular twenty-fourth section, as an individual member of the Convention, I am in favor of striking it out altogether, for the reason that if any of our people are inclined to fight, I do not wish to place anything in their way. It is sometimes absolutely and indispensably necessary that men should fight. I do not know that I desire that any particular mode of fighting shall be prescribed or proscribed by this Convention. If a man wants to fight with pistols I have no objection; or if he wants to use the instruments alone which the Almighty has given him, I have no objection to that either. But if this provision is to be inserted in the Constitution at all, I am in favor of its remaining about as it is.

The PRESIDENT (interrupting). The question is upon ordering the report to be engrossed for a third reading.

Mr. COGGSWELL. That is very true, but from the remarks which have been made, and the latitude of remarks which have been allowed, I think it not improper that I should say a few words in regard to the constitutionality of the section immediately in discussion. But if there is any objection, I will resume my seat. (Cries of "go on" "go on.")

The section says, if "any citizen of this "State who shall, after the adoption of this "Constitution, fight a duel with deadly weap-"ons, or send or accept a challenge to fight a "duel with deadly weapons, either within this "State or out of it."—Now, it is that portion of the section, which refers to duels fought out of the State, to which objections are raised.

If the fighting of a duel out of the State is proposed to be punished as a crime, then I have no doubt but that it is unconstitutional; for it is a well settled principle of the common law that when a man commits a crime in one State, he cannot be punished for that crime outside of the limits and jurisdiction of that State. But I do not understand that we propose to punish the fighting of a duel outside of the limits of this State, as a crime. We do not propose to say that he shall pay a fine of fifty or a thousand dollars. We do not propose to say that he shall be imprisoned in the county jail for six months, or incarcerated within the walls of a penitentiary for any length of time. We simply say that if he commits that particular crime he shall not be Pound Master, Register of Deeds, Secretary

of State, Lieutenant-Governor, or Governor. It seems to me that when we say he shall hold no office of profit or trust in the State, we do not undertake to punish the act as a criminal offence. If we look at the Constitution of the State of Texas, we find this same provision, letter for letter, and the Supreme Court of that State has decided that that was not unconstitutional. That is the only State, within my recollection, in which that question has been raised and decided. They make a distinction between the punishment of a crime, and a mere disqualification for holding any office of profit and trust. We say in our Constitution, that no person shall hold the office of Governor unless he be a citizen of the United States, and unless he has resided within the limits of this State a certain length of time, &c. Now there are many men who would be disqualified from holding that office simply because they have not resided within the State that length of time, and because they are not citizens of the United States. We do not regard that provision as a punishment for the crime of not being a citizen of the United States, or of not residing here a certain length of time. Now the provision under consideration does nothing more than that. It simply says he shall not hold any office of profit or trust under the State, and we do not inflict upon the individual any criminal punishment. If we do not, as a matter of course it is not unconstitutional.

Mr. MILLS. As one of the minority upon this question, I hope it will be recommitted to the committee, so that we may have some chance of still further amending it. It seems to me that we have gone too far, and that in the Bill of Rights we should declare nothing but general fundamental principles. Instead of declaring here that dueling is an evil and shall never be allowed in this State, we go on and prescribe how it shall be punished. If we notice dueling in the Constitution, why should not we notice gambling, or murder, or any other crime? If we notice all those subjects we shall sit here six or eight months. I do not understand that we came here to make laws for the people; but to prepare a system by which they may make laws themselves through the Legislature.

Mr. PERKINS. My opinion is that we shall be in the Union as a State, and under a Constitution framed in the other end of the Capitol, before we get our Constitution framed, unless we stop this interminable debate. I I see no prospect of this Convention adhering to fundamental [principles in framing this Constitution. I hope we shall go on and dispose of this matter without further delay.

The PRESIDENT. If the Chair puts the question to the Convention in this way—"Shall the report of the committee on the "Bill of Rights be engrossed for a third "reading?"—it will put it out of the power of this Convention to further amend it. If the question is put to recommit it to the standing committee, then, when they report it back to the Convention, it will still be subject to amendment.

Mr. NORTH. I would inquire what opportunity the committee on Arrangement and Phraseology will have to act upon this subject? When will it be their province to attend to that duty?

The PRESIDENT. After the various reports have been adopted in detail, they are to be sent to the committee on Arrangement and Phraseology, and that committee will have no right to make any alterations, except such as are actually necessary to carry out the intention of the sections.

Mr. NORTH. If there were two similar articles in different reports, would they have the right to strike out one; and would they have the right to take a provision from one report and put it into another?

The PRESIDENT. The Chair thinks they would have the right, with the final concurrence of the Convention.

Mr. NORTH. I am in favor of having the report recommitted, and I would like the committee to have the right to suggest certain changes in in it, if they see fit to do so, and when it comes back to us, I would like to see prompt action upon it.

I would suggest, also, that we should not talk quite as much as we have done; that we should keep up more thinking, and check our propensity to amend. I recollect at one time that there were no less than eight or ten amendments offered to one section, all of which were rejected right straight along, and I doubt whether any one can count the number of amendments which have been offered to one single section of this report. This

thing consumes time, and, as has been suggested, unless we are cautious we shall protract the session to months.

Mr. GALBRAITH. If I understand anything about an engrossed paper, it is not subject to amendment at all, except by unanimous consent. Now we have a committee on Arrangement and Phraseology, and if I understand their duties, they are to take all the parts of this Constitution and fit them together, and report the result to this House, with the corrections they have made—for I do not consider that the committee have any final power in the matter at all. Now would it not be putting the cart before the horse to engross any of these papers and then send them to that committee, and allow them to take out a whole section here, and place it elsewhere, and strike out a word here and a word there? Would that be the paper then, which was ordered to be engrossed by this body. Would it not be better to hand the reports with the amendments, to the committee on Arrangement and Phraseology, as fast as we get through them, and let them compare the one with the other, and then report the whole thing back to the Convention corrected, and ready for engrossment?

Mr. SECOMBE. The thirty-seventh rule of this Convention reads as follows:

"Every article when read a third time and passed, shall be referred to the committee on Arrangement and Phraseology."

I thought, at the time the rule was adopted, that it was a bad rule.

Mr. GALBRAITH. In order that we may have a little time to consider this matter, I move that the report be laid on the table.

Mr. NORTH. I hope that motion will not prevail. I want to see some progress made in our work.

The motion was not agreed to.

Mr. ALDRICH. I hope no disposition will be made of this report, until it is finally disposed of by this Convention. I also hope that every amendment which may be offered —and I am willing that every member should offer as many amendments as he pleases— will be voted upon without discussion.

From this time forth I shall insist that the Chair enforce the rule that no member shall speak but once until all others have spoken who desire to speak. I hope the gentleman who made the motion that the report be engrossed, will withdraw it, and if there are any further amendments to be offered, let us go on and consider them, and then dispose of the report finally. Let us not be idling our time as we have done.

Mr. COGGSWELL. I withdraw the motion.

Mr. SECOMBE. I want to have this matter disposed of. I want it either put beyond the reach of amendment or have the Convention immediately decide to amend it further.

Mr. GALBRAITH. Gentlemen have offered all the amendments they could, and then they rise up and tell us we shall not offer any more. I have not discussed this matter. I ask you if you are not getting yourselves into trouble? You put it upon record that you have ordered this paper to be engrossed, and then it will come up again, and under a suspension of the rules will have to be amended again. I tell gentlemen, who are talking about offering so many amendments, that I have offered no amendment which I did not consider important, and the only reason why I moved to lay it upon the table was, not that I wish to amend it again, but that I desire that we shall proceed in a right manner. Every other report has to go through the same process as this, and the object of my motion was that we might have time for consultation as to the best mode of putting our Constitution into shape so that there should be no clashing.

Then, on motion of Mr. SECOMBE, (at twelve o'clock and fifteen minutes) the Convention adjourned until half past two o'clock.

AFTERNOON SESSION.

The Convention met at half past two o'clock.

RESOLUTIONS.

Mr. McCLURE offered the following resolutions, which was read a first and second time and laid upon the table under the rules:

WHEREAS, There is official evidence from the production of the certificate of election, that there is a majority of the legally elected members to the Constitutional Convention who claimed and have been admitted to seats in this Convention; and,

WHEREAS, The members now holding seats in this Convention who produced *prima facie* evidence by the production of regular certificates of election as such delegates, represent a majority of the legal voters of this Territory, and,

WHEREAS, There are some *bodies* of men beginning to assemble in a chamber of this Capitol, who call themselves *the* Constitutional Convention, which they have an undoubted right to do, on the principle that if a man desires to make a fool of himself, there is no law against it—many of whom have no certificates of election to the Convention; others who have certificates, and who would be admitted to seats in this Convention, upon the production of their certificates—who have not attended the meetings of this Convention, from reasons best known to themselves, therefore,

Resolved, That the men occupying the chamber at the other end of the Capitol, are there, in our opinion, for the purpose of defeating the will of the people, and that their acts will not be recognized by the electors of this Territory.

Resolved, further, That while that body of men in the Council Chamber are denouncing us to the Federal President, and threatening us with the power of their masters, that the above preamble and resolution, together with copies of the credentials and evidence of election of members of this Convention be laid before the sovereign people of the Territory of Minnesota, to whom we appeal for the ratification of our action as a Convention.

Mr. MANTOR offered the following resolution, which was read, considered and agreed to, viz:

"*Resolved*, That there shall be a standing committee on Engrossment, consisting of five members to be appointed by the President."

The PRESIDENT thereupon appointed as such committee, Messrs. MANTOR, KING, PHELPS, PECKHAM, and WINELL.

Mr. COE offered the following resolution:

"*Resolved*, That this Convention adjourn without day on Friday, the seventh day of August next."

Mr. STANNARD. I think it will be improper to pass a resolution of that kind until we see how we get along with our business. If we fix that day we may have to adjourn without completing our business.

The resolution was laid over under the rule.

PREAMBLE AND BILL OF RIGHTS.

The Convention, under the regular order of business, resumed the consideration of the report of the committee upon the Preamble and Bill of Rights.

The PRESIDENT stated the question to be on the amendment to the twenty-fourth section, to strike out the the word "either," in the third line, and the words "or out of "it," in the fourth line.

Mr. SECOMBE called for the yeas and nays, but they were refused.

The amendment was not agreed to.

Mr. MORGAN. I move to strike out the twenty-second section, which is as follows:

"No lottery shall ever be authorized in this State, and the buying and selling of lottery tickets is hereby prohibited."

My reason for the motion is that in the report of the committee upon the Legislative Department, there is this provision:

"The Legislature shall never authorize any lottery, nor allow the sale of lottery tickets."

I think that is the appropriate place for such a provision.

The motion was agreed to.

Mr. MORGAN. I move to amend section twenty-fourth, relating to dueling, by striking out the words, "deprived of holding," and insert in lieu thereof the words "ineligible to."

The amendment was agreed to.

Mr. MORGAN. I would suggest that in the last line of the same section the words, "the laws of" should be inserted so as to make it read "of profit or trust under the "laws of this State." I move they be inserted.

Mr. NORTH. I would suggest the words, "within this State."

Mr. MORGAN. I accept of that modification.

Mr. SECOMBE. That would seem to be a prohibition of any one holding a federal office in this State. That could not be done of course, but I would prefer to have the language suggested by the gentleman from Hennepin county, (Mr. MORGAN.)

The question was taken upon the amendment as modified, and it was agreed to.

Mr. KING. I move to strike out section sixteen, and insert in lieu thereof the words:

"There shall be no imprisonment for debt."

Mr. COLBURN. I think that motion has once been made, and that the Convention refused to strike out the section.

Mr. KING. There was a motion made to strike out certain words, but no amendment to strike out the whole section.

The amendment was not agreed to.

Mr. COE. I move to reconsider the vote by which the Convention refused to strike out the section.

Mr. SECOMBE. I would inquire if the gentleman voted with the majority.

Mr. COE. I did.

Mr. WATSON. I move that there be a call of the Convention.

A call was refused.

The motion to reconsider was lost.

Mr. HARDING. I move that the report be ordered to be engrossed for a third reading.

Mr. HUDSON. I hope the gentleman will withdraw that motion and move to refer the report to the committee on Arrangement and Phraseology.

The PRESIDENT. If the report is ordered to be engrossed for a third reading, it cannot afterwards be amended, except by unanimous consent.

Mr. HUDSON. The committee on Phraseology might find it necessary to change the grammatical construction of some portions of it. That ought to be done before it is engrossed.

Mr. SECOMBE. I would inquire if, after engrossment, the rules might not be suspended by a two-third vote, and amendments be made.

The PRESIDENT. The rule can be suspended by a two-third vote, but the Chair has never known an instance where a bill, after being engrossed for a third reading, has been amended, except by unanimous consent.

Mr. NORTH. I think it would be the better course to refer it to the committee on Arrangement and Phraseology before the engrossment, if they are to have any supervision of it at all.

Mr. HARDING. I withdraw my motion.

Mr. STANNARD. I move to suspend the rules so far as to permit the report to be referred to the committee on Arrangement and Phraseology.

Mr. ALDRICH. I move to amend the eighth section.

The PRESIDENT. The motion to suspend the rules has precedence.

Mr. STANNARD. This report has been amended but very little, (laughter) and I withdraw my motion so that it can be amended.

Mr. ALDRICH. I move to amend section eight by adding thereto the following:

"In all suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise examined in any other court in this State, than according to the rules of the common law.

Mr. MILLS. I call for the yeas and nays.

The yeas and nays were not ordered.

The amendment was not agreed to.

Mr. SECOMBE. I now move that the rules be so far suspended as to allow this report to be referred to the committee on Arrangment and Phraseology.

The rules were suspended, (two-thirds voting in favor thereof) and the report was accordingly referred.

THE LEGISLATIVE DEPARTMENT.

On motion of Mr. COLBURN, the Convention resolved itself into the committee of the Whole, (Mr. MANTOR in the chair) upon the report of the committee on the Legislative Department. (For report see proceedings of July twenty-third.)

The CHAIRMAN proceeded to read the article by sections.

Section one was passed without amendment.

SEC. 2. The Senate shall consist of not less than twenty-four, nor more than thirty-two members. The House of Representatives shall consist of not less than sixty-four, nor more than one hundred members.

Mr. HUDSON. Mr. CHAIRMAN: It seems to me there ought to be some definite numbers substituted here.

Mr. NORTH. I would say to the gentleman, that it has been customary in the Constitutions of the Western States, to provide in this way for the rapid settlement of the unsettled portions of the State. We can commence with the smallest number, and the Legislature may increase the number as occasion requires, and the State becomes settled in the remote localities. The committee thought this would be better than to fix a permanent number.

Mr. COGGSWELL. I move to strike out the words "thirty-two," in the second line, and insert "forty-two;" also, to insert the words, "and fifty," after the the word "hundred," in the third line.

The motion was rejected.

Mr. MORGAN. I propose to amend, by striking out "sixty-four," in the third line, and inserting "seventy-five;" and inserting and "twenty-five," after "hundred."

Mr. COGGSWELL. I certainly do not desire to inflict a speech upon the Convention,

but I desire to make a few remarks, which, to my mind, are of some little importance. In forming a Constitution, and establishing a State government, to my mind, it is necessary to have an eye to what must necessarily be the wants and wishes of the people. It is well known that we cannot establish a pure democracy—a thing which, in my judgment, should be established, provided circumstances would admit of it. But inasmuch as we are compelled to establish a representative form of government, I think we should see that as far as possible, every interest of the people should be heard and represented in our legislative halls. This thing of cutting down the number of representatives, tramples in my judgment, upon the ideas we form of a pure democracy—that is, the principle, that every interest and every locality of the State should be heard in the legislative department. I am aware that of late, it has been thought prudent to cut down the number of representatives in the popular branch of the Legislature. But, in my judgment, this is wrong—very wrong. As far as I have examined the report of this committee, they have followed, almost word for word, the Wisconsin Constitution in this particular; and, to my knowledge, there is already considerable complaint in that State in regard to the small number of representatives in the popular branch of the Legislature. I do not undertake to say but what one hundred members in the popular branch, would represent all the interests of the State at the present time. But any one, knowing anything about our Territory, its resources and people, must know very well, that the time is not far distant when we shall have one hundred well peopled counties; and this cutting down the number of representatives to one for each county is ridiculously and palpably wrong. In the New England States it is well known, that every little township has one representative in the popular branch of the Legislature, and some towns have three or four. But here, you propose to circumscribe the number, so that, perhaps, in a few years it will require that two counties shall be represented by one member in the popular branch of the Legislature, and the result will be that many localities and interests will not be represented properly and fairly. Now, sir, I say we are here for the purpose of reflecting the interests and wishes of the people, and to secure this for our future legislation. It is my judgment, therefore, that we should be careful to secure a sufficient number of representatives to do that most thoroughly. And if you cut down this number to seventy-five or a hundred, in my opinion, not five years will pass away, before you will hear of a Convention to revise the State Constitution, for the reason, that interests of importance to the people cannot be heard in the Legislature.

Mr. MORGAN (interrupting.) The gentleman misapprehends my amendment. I proposed to increase the number of representatives—the smallest number to seventy-five, and the largest to one hundred and twenty-five.

Mr. COGGSWELL. Then I have misapprehended the object of the amendment. As I now understand it, as far as it goes, it is good. I could wish it went a little further, so that we might have at least one hundred and fifty members of the House of Representatives, provided it should be the wish of the people to have that number. I do not say it is important to have that number now; but, in my judgment, the time is not far distant, when the people will require that number, in order properly to represent all their vast and varied interests.

Mr. NORTH. Mr. Chairman, I hope the amendment will not prevail; and, if I was not so much opposed to making speeches, I would make a speech on the subject. But I will not, till I see it is necessary.

The amendment was rejected.

SEC. 3. In the year one thousand eight hundred and sixty-five, and every tenth year thereafter, an enumeration of all the inhabitants of this State shall be made in such manner as shall be directed by law; and in the year one thousand eight hundred and sixty, and every tenth year thereafter, the census taken by the authority of the government of the United States shall be adopted by the Legislature as the enumeration of this State; and at the first regular session of the Legislature holden after the returns of each census herein provided for, are made the several districts for the election of senators and representatives shall be established and apportioned by law according to the number of inhabitants."

Mr. KING. Mr. Chairman, I have an amendment to this section. It is to remove the words "are made," from the ninth line,

and insert them in the eighth line after the word, "returns." As it reads now it would take a man of considerable skill to make sense out of it.

Mr. ROBBINS. Mr. Chairman, this difficulty is all in a typographical error. Put in a comma after the word "made," in the tenth line, and it will be all right.

Mr. BILLINGS. I presume all this criticising belongs to the committee on Arrangement and Phraseology.

The amendment was rejected.

SEC. 5. The senators shall also be chosen by single districts of convenient contiguous territory, at the same time that the members of the House of Representatives are required to be chosen, and in the same manner, and no representative district shall be divided in the formation of a senate district. The senate districts shall be numbered in regular series, and the senators chosen by the districts designated by odd numbers shall go out of office at the expiration of the first year, and the senators chosen by the districts designated by even numbers, shall go out of office at the expiration of the second year; and thereafter the senators shall be chosen for the term of two years, except that there shall be an entire new election of all the senators at the election next succeeding each new apportionment provided for in the third section of this article.

Mr. KING. Mr. Chairman, I move to strike out from the third line, the words, "re-" quired to be."

The amendment was rejected.

Mr. CLEGHORN. Mr. Chairman, I propose to amend the fifth section, by striking out all after the word "years," in the eleventh line. Section three requires a new apportionment to be made every five years; consequently, with this in the fifth section, the term for Senators would be short in a great many cases.

Mr. NORTH. I will state the reason why the section was put into that form. There was considsrable discussion of that point in the committee, and there were several members who thought there would be difficulty, after a new apportionment, in knowing what Senators were to hold over, or who to elect, where senatorial districts might be cut up by the new apportionment, and to know how to arrange and calculate the representation under the new apportionment—some Senators holding over and others not. My own opinion was, that it could be done without having an entire new election. Other members thought otherwise; and for the purpose of obviating the difficulty, the report was put into the form it is.

The amendment was rejected.

SEC. 6. The first session of the Legislature after the adoption of this Constitution, and each session immediately succeeding the return of the census provided for in this article, shall not extend beyond the term of ninety days. No other regular session shall extend beyond the term of sixty days, nor any special session beyond the term of forty days. The Legislature shall meet at the seat of government on the first Wednesday in January in each year, and not oftener unless convened by the Governor.

Mr. MORGAN. Mr. Chairman, I move to strike out "sixty," in the fifth line, and insert "seventy-five." I do not think sixty days sufficient time for the regular session of the Legislature. I know that here in this Territory sixty days has been found rather short. The business has been very much hurried toward the close of the session. I do not think the public good will be subserved by this restriction, and I therefore propose seventy-five days. If the business can be done in less time, of course it will be all the better. But I apprehend, that by hurrying through the business of legislation, the State will lose a great deal more than it will gain by restricting the time of the session.

Mr. NORTH. Mr. Chairman, I will state the reasons that actuated the committee in thus fixing the time. It has been generally known, that since this Territory commenced its Territorial existence, a large share of the sessions of the Legislature have been spent otherwise than in the enactment of laws and attending to the business legitimately before them. It has not unfrequently happened, that the Legislature has occupied its two weeks in organizing. It was because too much time had been given away in this manner, and in view of the importance of organizing on the first day of the session as we did here, and as I hope Republicans will always be inclined to do—that it was thought best to limit the regular sessions to sixty days. This will give an abundance of time, if it is improved properly. In Connecticut where they have the very large representation referred to, they only have about a four weeks session. It seems to me that sixty days for the regular session, and ninety days when there is an apportionment, is ample time.

Mr. FOLSOM. It seems to me that sixty days will be sufficient time. I believe, if we were limited to a hundred days, there would be found many persons to desire a hundred and fifty.

Mr. ALDRICH. In Illinois the sessions are limited to forty days, including Sundays, yet they generally manage to get through. In the State of Rhode Island, also, they get through in a much less time.

Mr. MURPHY. It is useless to extend the time, Mr. Chairman. If they can't get through in sixty days, let us have another set of men.

The amendment was rejected.

SEC. 9. Each House may determine the rules of its own proceedings, punish for contempt or disorderly behavior, and with the concurrence of two-thirds of all the members elected, expel a member; but no member shall be expelled a second time for the same cause.

Mr. PERKINS. I would inquire of the Chairman of the committee, what is to be understood by this "second time?"

Mr. NORTH. I suppose it means simply, in a case where a member has been expelled and sent home, if the people elect him again, it would not be constitutional to turn him out the second time. Joshua R. Giddings, an Ohio Congressman, was once sent home to his constituents, and they sent him back again.

Mr. COGGSWELL. So in the case of Brooks. (Laughter).

SEC. 11. Each House shall keep a Journal of its proceedings and shall publish the same, except such parts as require secrecy. The doors of each House shall be kept open except when the public welfare requires secrecy. Neither House shall, without the consent of the other, adjourn for more than three days.

Mr. MORGAN. Mr. Chairman, what are we to understand by these words, "shall "publish the same?" It is doubtful whether it is to be understood that the journal of each House is to be published at the public expense; or whether it shall be a mere journal kept for public inspection.

Mr. NORTH. I suppose it means, that the Legislature do as they see fit in the matter of printing. It will be expected that their journal will be published, at least, in the paper employed to do the printing. It was not a matter thought of very minutely in the committee, but that was the impression.

Mr. BILLINGS. We have already a law for the publication and distribution of the laws.

Mr. MORGAN. It has been usual for the newspapers to publish sketches of the proceedings of the Legislature; but as for the publication of the journal, I believe that never has been done.

Mr. NORTH. Yes sir, they are published in pamphlet form every year—about two thousand copies. You can supply yourself below.

SEC. 16. No member of the Legislature shall be liable in any civil action or criminal prosecution whatever for words spoken in debate.

Mr. COGGSWELL. I move to strike out section sixteen.

The motion was rejected.

SEC. 22. A majority of all the members elected to each House shall be necessary to pass every bil or joint resolution, and all bills or joint resolutions shall be signed by the presiding officers of the respective Houses.

Mr. SECOMBE. Mr. CHAIRMAN: I move that section be stricken out; and I will give briefly the reasons I have for making the motion. It is an unusual provision to require that there shall be a majority of all the members elected to the House, to pass a bill, and it seems to me an unreasonable one. For instance, if a third or quarter part of the members elected do not see fit to take their places in the Legislature, it would require a clear majority of the members, who were qualified members of the Legislature, to pass a bill. Again, I object to the section on account of the last provision, which requires that every bill or joint resolution shall be signed by the presiding officers of the two houses. I think that should be left to the two Houses themselves. The signatures of the presiding officers are no part of the bills. They are merely a method of authenticating the bills, or of proving to the Governor that they have been passed; and I think it is a matter that should be left to each House to determine by its own rules.

Mr. MORGAN. I hope the section will be stricken out. It is an unusual and unwise provision to give power into the hands of a minority to distract and prevent proceedings by withdrawing from the Legislature. I remember a case in the New York Legislature, where the canal works of that

State were thrown back a whole year by members withdrawing themselves from the House.

Mr. STANNARD. I think if gentlemen will read the section once more, they will dismiss their objections. It says:

"A majority of the members elected shall be necessary to pass every bill or joint resolution."

—It does not say they shall vote for it. It does not say it shall take more than a majority of all the members present, but that it shall require a clear working majority of all the members elected to be present, and a majority of those present voting for the measure.

Mr. SECOMBE. If that is the interpretation, I shall vote against it as unnecessary; for it always requires a quorum to do business. But then the section does not require a majority of all the members elected to vote for the bill.

Mr. STANNARD. The reason why that section was incorporated there, was to provide against a case like this: where certain members do not happen to be present, and a certain portion of the body do not desire their presence, a member gets up and asks that a member be excused, and the Chair thereupon deciding that a majority of the members acting and present can go on and do business. It is to provide against that.

Mr. COLBURN. If the gentleman who last spoke (Mr. STANNARD) truly represented the section, it would seem that it should be retained; for it would induce members to be careful to be present. But suppose the same principle were applied to this Convention, we would have to be very constant in our attention here—much more than we have been. But suppose, again, that a portion of the members of the Legislature should withdraw accidentally, it is manifest that a strict enforcement of the rule would retard business. The principle appplied to this Convention would certainly operate badly. I see no advantage in it.

Mr. STANNARD. I certainly cannot vote for the report, unless the Convention will fix the quorum. I do not want to fly the track. All I ask is to say that a quorum shall be a majority of the members elected.

Mr. CLEGHORN. If the gentleman will look at section eighth, he will find a quorum provided for.

Mr. WILSON. I would like to hear again whether I understand the gentleman on my left, (Mr. STANNARD) whether it requires a majority of all the members elected to pass a bill, or a majority to be present. I think, from the reading, that it requires a majority to vote for the bill. I would not say certainly either way, but I think so.

The section was stricken out.

SEC. 23. Every bill and joint resolution, except of adjournment, passed by the Legislature, shall be presented to the Governor before it becomes a law. If he approve he shall sign it; but if not, he shall return it with his objections to the House in which it originated, which shall enter the objection at large upon its journal, and reconsider it. On such reconsideration, if two-thirds of the members elected agree to pass the bill, it shall be sent with the objections to the other House by which it shall be reconsidered. If approved by two-thirds of the members of that House, it shall become a law. In such case the vote of both Houses shall be determined by the yeas and nays, and the names of the members voting for or against the bill shall be entered on the journals of each House respectively. If any bill be not returned by the Governor within three days, (Sundays excepted) after it has been presented to him, the same shall become a law in like manner as if he had signed it, unless the Legislature, by their adjournment prevent its return, in which case it shall not become a law. The Governor may approve, sign, and file in the office of the Secretary of State within three days after the adjournment of the Legislature, any act passed during the last three days of the session, and the same shall become a law.

Mr. ROBBINS. I move to strike out that section. It seems to me that the subject matter of it will come in more appropriately in the report on the Executive Department.

Mr. ALDRICH. I would ask the gentleman to modify his motion so as to strike out all except the four last lines. That provision does not belong to the Executive Department.

Mr. NORTH. I would inquire of the gentleman, if that part of this section which controls the action of each House, ought to be in the report on the Executive Department? It says:

"In such case the vote of both Houses shall be determined by the yeas and nays, and the names of the members voting for and against the bill shall be entered on the journals of each House respectively."

—It seems to me that there is so much of this section which applies to and controls the

action of the Legislature, that its proper place is in the report upon the Legislative Department. I therefore object to its being stricken out.

Mr. MORGAN. I was one of the committee that made the report upon the Executive Department, and upon consideration I think this section belongs to the Legislative Department of the Government, that the action of the government in this respect is legislative action and not executive; and hence that is now in its proper place. If we retain it here, the committee on arrangement will strike it out from the other bill. Besides, the last clause of this section is not in the report on the other department.

Mr. FOLSOM. Every bill and resolution must originate in the legislative body, and it seems to me that everything which relates to the perfection of these bills and resolutions into laws, properly belong to the Legislative Department.

Mr. STANNARD. I consider the clause with respect to a two-third vote, is but a qualification of the veto power, which belongs to the Executive.

Mr. WILSON. There is one reason why I want it stricken out here, and why I prefer that in the report on the Executive. It says here "if two-thirds of the members *eleeted* "agree to pass the bill it shall be sent, &c." Now I do not want to make that provision so stringent as to require two-thirds of the members *elected.*

Mr. NORTH. I think that upon reflection the gentleman from Chisago County (Mr. STANNARD) will come to the conclusion that this provides more for legislation, than for the veto power. It presents the manner in which a bill is to become a law when an objection is made to it by the Governor. Therefore I think it belongs here. As to the objection raised by the gentleman from Winona, (Mr. WILSON) for myself I think it is none too stringent.

The committee refused to strike out the section.

Mr. HUDSON. I move to strike out the word "three" in the thirteenth line and insert the word "ten."

Mr. ALDRICH. I hope that amendment will not prevail. That matter was discussed in the committee and they come to the conclusion that three days was giving sufficient time.

Mr. STANNARD. Pretty much all the business of legislation is done within the last ten days, and the Governor might pocket every bill passed, if you adopt this amendment.

The amendment was not agreed to.

Mr. PECHAM. I move to strike out the word "elected" in the sixth line and insert the word "present."

The amendment was agreed to.

"SEC. 25. Every statute shall be a public law unless otherwise declared in the statute itself."

Mr. COGGSWELL. I would like to hear some member of the Convention explain the meaning of that section.

Mr. NORTH. Private bills are not always called public laws and sometimes there are legislative provisions which require public laws to be published before they take effect.

Judges are also required to take notice of public laws, but not private statutes, unless they are pleaded.

Mr. COGGSWELL. That it was found in other Constitutions, and therefore should be placed in here, is the best reason I have yet heard. Now I have read Greenleaf, Starkey, and other old authors, as well as the gentleman from Rice County, and I say that the only effect of this section will be to alter the old common law rule in regard to certain matters connected with evidence. Now if we are going to avoid everything which looks like legislation, as many gentlemen strenuously contend we shall, let us not alter the principles of common law in that respect. I am in favor of striking out the section.

Mr. CLEGHORN (interrupting). I rise to a point of order. There is no question before the House.

Mr. NORTH. I suggest if the gentleman wants it stricken out, he make a motion to that effect, and let us talk to something.

Mr. COGGSWELL. I do not make the motion.

Mr. NORTH. Then I object to the gentleman's proceeding.

Mr. COGGSWELL. If it is in other Constitutions, I want it in ours. (Laughter).

"SEC. 27. Each member of the Legislature shall receive for his services three dollars for each day's attendance during the session, and ten cents for every mile he shall travel in going to and re-

turning from the place of the meeting of the Legislature on the most usual route."

Mr. COGGSWELL. I move to amend by striking out "three" and inserting "four." That is small pay enough if you have anything like decent men for Legislators.

The amendment was not agreed to.

Mr. COLBURN. I move to strike out all after the word "services" and insert in lieu thereof the words "and travel such compen- "sation as shall be provided by law," so that the section shall read—

"Each member of the Legislature shall receive for his services and travel such compensation as shall be provided by law."

The amendment was agreed to.

"SEC. 31. The Legislature shall not establish a State Paper. Every newspaper in the State which shall publish the general laws of a session within forty days of their passage shall be entitled to receive a sum not exceeding fifteen dollars therefor."

Mr. RUSSELL. I move to strike out that section and insert the following substitute:

"The Legislature shall not establish a State paper. Any two papers having the largest circulation within the county where printed, which shall publish the general laws of the legislative session within three months after their passage, shall be entitled to receive therefor the sum of one dollar for each thousand ems."

Mr. SECOMBE. I hope the amendment will not be adopted, and that this section will be stricken out entirely. I do not see the necessity of binding up the Legislature in this way. This does not provide any way whereby the laws can be published, unless by a voluntary publication on the part of the different papers of the State. Suppose no paper does publish them, then the Legislature are prohibited from procuring their publication. I would leave it for the Legislature to determine the matter for themselves.

The amendment was not agreed to.

Mr. SECOMBE. I move that the section be stricken out.

The motion was agreed to.

"SEC. 32. The Legislature may submit to the people any Act for their ratification or rejection, and such act so submitted shall, if approved by a majority of the legal voters at the appointed election, become a law."

Mr. STANNARD. I move to strike out that section.

Mr. HUDSON. I hope that motion will not prevail. It is frequently desirable to submit certain questions to the people, and the will of the people should be the law.

Mr. SECOMBE. I hope the section will not be stricken out. It has been decided repeatedly that where there is no such provision, it is unconstitutional to submit laws to the people. It has been decided the other way too, I believe. To make the matter sure, I am in favor of allowing the section to stand as it is.

Mr. HUDSON. In Michigan, four judges of the Supreme Court held that it was Constitutional, and four judges held that it was not.

Mr. COLBURN. The question has been mooted in several of the States. In Massachusetts a long discussion was had upon the same question, and to remove all doubt I hope the section will be retained.

Mr. MURPHY. I hope the section will be retained. We have had the matter tried in this Territory. The Maine liquor law, as it is called, was submitted to the people, and the judges decided that such a submission was unconstitutional.

Mr. COLBURN. The subject was discussed in the Massachusetts Legislature, and it was contended by some that the people had no power to pass a law submitted to their action, in the absence of any provision in the Constitution, authorizing such submission.

Mr. KING. I move to amend the section by striking out the words "legal votes," and inserting in lieu thereof, the words "voters voting." The word "legal voters" might be construed to mean the voters in the Territory. and if a majority did not vote, it would not become a law.

Mr. PERKINS. There can be no doubt but that this section is declaratory of a doubtful legal question. I know there was considerable trouble over the matter in Vermont, but it was there finally decided that a question might be submitted to the people.

Mr. NORTH. This question has arisen upon a great many different subjects. There are many subjects which Legislatures generally refer to the decision of the people. It is not uncommon that banking laws are submitted to the people. Such is the case in Wisconsin. School laws are also frequently

submitted. It is also quite common for Legislatures to delegate certain powers to counties, and they are allowed to vote upon the location of the county seat. Boards of Supervisors are also frequently clothed with certain powers, and they, in turn, submit the question to the people for their action. Now if there is to be a question about the Constitutionality of that kind of legislation, which may cause litigation for years, and great expense and inconvenience, it would be well to settle it here.

Mr. FOLSOM. I do not profess to understand the question of the Constitutionality or unconstitutionality of this matter, but it does seem to me that to refer a question to the people is Democratic and Republican. Now I am not in favor of calling the people out to vote upon a question, when it will do no good, and only result in squandering their time and money. I was once called out to vote upon a question submitted to the people, and the judges afterwards decided that the people of the Territory, as a people, had no right to pass a law: that the Legislature were the only law making power. If, in the future legislation of our State, it is thought best to submit a measure to the people for their approval, I hold that we should have a clause in our Constitution, making such a submission valid.

Mr. STANNARD. I have taken a great deal of interest in reading the reports, not only of Vermont and Massachusetts, but of our own Territory, on this question. In those reports, the principles of our government were pretty thoroughly discussed. We are not so pure a Democracy as many persons imagine. Our government is a medium between aristocracy and democracy. The people are supposed to choose the best men to make laws for them, and in that respect our government is more of an aristocracy than a democracy. It has been decided that the Executive and the Legislature are the only law making powers.

Mr. NORTH. That is the very reason why we need such a provision as this. It very frequently happens that the Legislature is called upon to legislate upon important matters, in reference to which they were not elected. They, in their discretion, refer the matter to the people and ask them to decide upon it. The people decide it, and then some judge says to the people: "you have no business to pass upon such a matter, for it is unconstitutional." Now it seems to me that such is not the treatment which the people should receive, and there should be some provision to guard against its recurrence.

The amendment was not agreed to.

The question recurring on the motion to strike out the section, it was put and decided in the negative.

"SEC. 35. The Legislature shall determine what persons shall constitute the Militia of the State, and may provide for organizing and disciplining the same in such manner as shall be prescribed by law."

Mr. COLBURN. I move to strike out that section.

Mr. ALDRICH. I hope the motion will prevail, as that matter properly belongs to the committee upon the Militia.

Mr. NORTH. I am surprised to hear such a motion as that come from a member of the committee on the Militia.

Mr. COLBURN. The committee on the Militia propose to introduce a better provision than that.

Mr. NORTH. I should like to see what the provision is, before this section is stricken out.

The motion to strike out was agreed to.

"SEC. 36. The Legislature may contract debts to meet casual deficits or failures in the revenue, but such debts direct or contingent, singly or in the aggregate, shall not at any time exceed five hundred thousand dollars; and the moneys arising from loans creating such debts shall be applied to the purposes for which they were obtained, or to pay such debts; *Provided*, that the State may contract debts to repel invasion, suppress insurrection, or if hostilities are threatened, provide for the public defense."

Mr. COGGSWELL. I move to strike out that section for the reason, that the subject matter belongs to the committee upon Finance and Public Debt.

Mr. ROBBINS. Also to the committee upon Internal Improvements.

The motion was not agreed to.

Mr. THOMPSON. I believe the bill has now been read through. I desire to offer an amendment to section two, to strike out the words "sixty-four," and insert "fifty," so as to provide that the House of Representatives shall consist of not less than fifty members, nor more than one hundred.

The amendment was not agreed to.

Mr. COLBURN. I move to amend section two, by inserting "and twenty-five," after the word "hundred," so as to provide that the House shall not consist of more than one hundred and twenty-five members. I do not offer this because I desire so large a House at present, but the time may come before the people will want to alter this Constitution, when they will actually demand a larger number of Representatives. This number is not materially larger, and I can see no objection to adding it, because if the people do not demand an increase of members, the Legislature will not provide for it.

Mr. NORTH. The great State of New York has had but one hundred and twenty-eight members in their House of Representatives, although she has a population of over two millions, and I think we can get along with a hundred.

Mr. COLBURN. But the little State of Massachusetts has a House of over three hundred members.

Mr. MORGAN. There are not as many counties in the State of New York, as there are in this Territory now. There will be a great many counties in this State with a sparse population, and I think it will be found necessary, in order to have a fair representation to have a large popular branch. I am decidedly in favor of increasing the number to one hundred and twenty-five. If the State does not wish so large a popular branch, the Legislature will not provide for it.

Mr. ALDRICH. In the State of Illinois it is provided that the Senate shall consist of twenty-five, and the House of Representatives of seventy-five members until the population shall amount to one million, and that the popular branch shall not then exceed one hundred members. That State has one hundred counties. I am in favor of as small a number as can be got along with. I think it will not be many years before a larger number will be required than is provided for in the report.

The amendment was not agreed to.

Mr. CLEGHORN. I offer the following as an additional section:

"SEC. —. Divorces shall not be granted by the Legislature."

Mr. WILSON. I hope that will be adopted. It certainly is a good provision.

Mr. COLBURN. I move to amend by adding thereto the words, "in this State."

Mr. CLEGHORN. I accept that as a modification of my amendment.

Mr. BILLINGS. I am in favor of the amendment. It seems to me that the propriety of the thing will suggest itself to every one who thinks candidly upon the subject. It has been the habit of the Legislature to devote almost all its time to cases of divorce, and all who are able to come here and log-roll, can get divorces.

Mr. MURPHY. I hope the section will be adopted. A case occurred in this Territory in which the Legislature one winter granted a bill of divorce; the next summer the parties were married again, and the next winter they came to the Legislature and got another divorce. Our Legislatures have been constantly troubled with these matters. We have now a very liberal law upon this subject, and I hope the matter will be taken out of the hands of the Legislature.

The section was adopted.

Mr. COGGSWELL. I move to add to section four these words:

"Provided that nothing in this section shall be so construed as to interfere with the manner of electing Representatives to the first Legislature to be convened under this Constitution."

Mr. BALCOMBE. I cannot see the propriety of inserting anything of that kind into the body of the Constitution. When we come to frame the schedule all matters pertaining to the transition state will be provided for.

Mr. BILLINGS. I believe the amendment is not properly before the committee, as it has not been reduced to writing. I move to amend the same section by striking out the word, "October," and inserting "November," so as to provide that the election of members of the House of Representatives shall be on the Tuesday succeeding the first Monday of November instead of October.

Mr. ALDRICH. I hope the amendment will not prevail. If we were situated as some Territories are, I should be in favor of the change. But we have a large population who annually go into the woods a logging. If our election is put off until November, we deprive them of the privilege of voting.

Mr. BILLINGS. And we have many in

the southern part of the Territory who are threshing buckwheat about that time.

Mr. ALDRICH. These men go into the woods three hundred miles away, and it is not so convenient quite for them to get to the polls, as it is for the gentleman's constituents who are threshing buckwheat.

Mr. NORTH. That subject was considered in the committee, and one member of the committee said that in his section of the Territory there are something like two thousand men who go into the woods logging early in the fall, beyond the reach of voting precincts. They would be deprived of the privilege of voting if this amendment should prevail. That is a matter of some importance, and an interest we ought to consider. On that account it was, that the statutes of our Territory have heretofore fixed the time in October, and it was this reason which induced the committee to determine upon that time.

Mr. MURPHY. We have in St. Anthony from one hundred and fifty to two hundred persons who go to the pineries every fall, all of whom are Republicans. I have known them to delay their departure a week, or two weeks, in order to deposit their votes. But if the time of election is put off until November, we shall lose from one to three hundred votes. We should lose in Minneapolis to about the same extent. It would be more of an injury to St. Anthony and St. Croix than to any other part of the Territory.

Mr. BILLINGS. My remark in reference to threshing buckwheat was but a jest to offset a previous remark made by another gentleman. If there is any force in the argument that we shall poll less votes, I do not know that it necessarily follows that the Republicans in particular will lose by it, for I presume that the class of persons who go into woods are both Democrats and Republicans.

Mr. NORTH. Is it right to deprive two or three thousand voters of their votes?

Mr. BILLINGS. I say no, but the same argument which applies to this case would apply to the fixing of any other special time. To fix the day for October would deprive many others and a different class of men, of their votes, because navigation is not then closed. You can fix no day but what some must be necessarily absent from the polls. October is just the time of the year when our merchants, in the southern part of the Territory, go east to purchase goods. A consideration in favor of November, is, that that is the time for the Presidential election, and we should get a larger vote for our State ticket, when that election comes at the same time with the Presidential election. Men get warmed up at that time, and if they are good Republicans, they will not go into the woods until after that time.

Mr. SECOMBE. There is a very large class in this Territory who are engaged annually in lumbering, and the lumbering interest is a very important one. It not only benefits those immediately engaged in it, but the benefits of that trade extend over the whole Territory, and the whole length and breadth of the land; and in the prosecution of that business it is absolutely necessary that about the time this election is held, that they should go hundreds of miles away. I hope the amendment will not prevail.

Gentlemen have used the term "republican." I do not consider that this Convention is making provisions for Republicans, but for the voters of the Territory, no matter which way they vote.

The amendment was not agreed to.

Mr. THOMPSON. I move that the committee rise and report the report back to the Convention with a recommendation that the amendments of the commtttee be concurred in.

The motion was agreed to.

The committee accordingly rose and reported the report with the recommendation that the amendments of the committee be concurred in.

Mr. KING (at five o'clock and thirty minutes) moved that the Convention adjourn.

The motion was lost.

Mr. CLEGHORN. I move that the report be laid on the table.

The motion was not agreed to.

Mr. MURPHY. I move that the Convention adjourn.

The motion was not agreed to.

Mr. BATES. I move that the Convention now proceed to act upon the amendments recommended by the committee of the Whole.

The motion was agreed to.

The several amendments were then taken up and disposed of as follows:

"*First Amendment.*—Strike out section twenty-two."

The amendment was concurred in.

"*Second Amendment.*—Section twenty-three, line six, strike out 'elected,' and insert 'present,' and insert the word 'present' after the word 'members' in the ninth line."

The amendment was concurred in.

Third Amendment—Section twenty-seven after the word 'services,' insert 'and travel such compensation as shall be provided by law,' and strike out the balance of the section."

The amendment was concurred in.

"*Fourth Amendment.*—Strike out section thirty-one."

Mr. FOLSOM. I hope that amendment will not be concurred in. I am in favor of the poor people of the State receiving the laws of the land through the newspapers. There is hardly a head of a family in the State but what takes a weekly paper. If the laws are printed in the weekly papers, a knowledge of our laws will be spread throughout the whole country. If you print them in a calf bound volume, the poor people will not be able to buy them. Let the German, the Sweede, the Norwegian and all have the privilege of reading these laws, in a cheap form. That is the easiest and most correct mode of diffusing this knowledge.

Mr. STANNARD. The result under this section would be that no paper would publish the laws, as they could not afford to do it for the compensation proposed.

The recommendation of the committee of the Whole was concurred in, and the section was stricken out.

"*Fifth Amendment.*—Strike out section thirty-five, relating to the militia."

The amendment was concurred in.

"*Sixth Amendment.*—Add the following additional section:

"SEC. —. Divorces shall not be granted by the Legislature in this State."

The amendment was concurred in.

Mr. STANNARD. I move to amend the additional section which has just been adopted by adding thereto the words, "except in cases "not cognizable by the Courts."

Mr. SECOMBE. I hope the amendment will not prevail. I cannot conceive of a case which cannot come before the Courts. The Legislature, of course, will pass such laws as they see fit upon the subject. They will provide in what cases divorces may be granted, and in what Courts they may be granted.

Mr. STANNARD. The only divorce bill which passed the Legislature last winter was a case, which, from its peculiar circumstances, could not have been cognizable by the Courts.

Mr. SECOMBE. There were no Courts at that time, and the Legislature granted the divorce, as there would otherwise have been unreasonable delay under the circumstances.

The amendment was not agreed to.

Mr. CLEGHORN. I move the following as an additional section:

"SEC.—. No new bill shall be introduced into either House during the last three days of the session, without the unanimous consent of the House in which it originated."

The amendment was not agreed to.

Mr. BILLINGS. I move to strike out of section four the words "on the Tuesday succeeding the first Monday of October by the "qualified electors of the several districts."

My object in moving the amendment is to leave the matter to the Legislature hereafter, to fix the time of election.

Mr. COLBURN. That will obviate the objections which have been made to this section, and will satisfy all, so far as the Constitution is concerned.

I hope the amendment will not prevail. Ever since I have been in the Territory, the day of election has been that which is specified in this section.

Mr. FOSTER. There must be a difference of opinion on this matter. The idea, I think, is a good one, to leave it with the Legislature to fix the day. That will avoid any conflict of opinion on that point when we get before the people with the Constitution.

Another thing. If we fix the day at all, we should have it in a separate article, and submit the question to the people.

The amendment was not agreed to.

Mr. STANNARD. I offer the following section:

SEC. — A majority of all the members elected shall constitute a quorm in either branch of the Legislature."

Mr. HUDSON. That provision is already contained in the eighth section.

Mr. STANNARD. That section says a *majority of each House*, and that is the reason why I want my amendment adopted. I want a quorum to consist of a majority of all the members elected, and not a majority of those who happen to be present. I do not want a few members to come in and organize the House in the absence of all the rest. I cannot vote for a Constitution unless a provision similar to mine is in it. I insist that a majority of the members elected to any deliberative body should constitute a quornm. It is a question which ought not to be left open to the opinion of this man or that, but should be fixed and certain.

Mr. MORGAN. I conceive that the word "majority" means a majority of the members sworn in. The section says, a majority of each House, not a majority of those present. There can be no other meaning attached to it, for we frequently find ourselves without a quorum, which is, less than a ma-o rity of the members sworn in.

Mr. STANNARD. My amendment is designed to take the place of section twenty-two. It is nothing but just and fair, I would ask for nothing more. I remember one instance last winter in which the Speaker of the House—a very able parliamentarian too—decided that nineteen was a majority of thirty-nine members. Why? Because one member was not here and another member had been excused. A precedent for such a decision as that cannot be found in any work upon parliamentary law in the United States or England.

Mr. SECOMBE. I hope the amendment will not prevail. This amendment if adopted, will allow a minority, by remaining out of either House, and refusing to be sworn in, to compel the attendence, and constantly perhaps, of all the other members—a case similar to what we saw at the commencement of this Convention.

The amendment was not agreed to.

Mr. THOMPSON. I move that the rule be so far suspended as to allow the report to be referred to the committee on Arrangment and Phraseology.

Mr. WILSON. I hope that will not be done. We have looked over this report very hastily and only this afternoon. It will not delay business at all if we let it lie over until to-morrow.

Mr. NORTH. I think the report is in much better shape than if we had been spending three days upon it.

Mr. COLBURN. I hope the motion will prevail, for I do not want any more discussion on this report.

The motion was agreed to, and the report was referred to the committee on Arrangement and Phraseology.

Then on motion of Mr. RUSSELL (at six o'clock) the Convention adjourned.

SEVENTEENTH DAY.

FRIDAY, JULY 31st, 1857.

The Convention met at nine o'clock, A. M.

The journal of yesterday was read and approved.

THE ST. ANTHONY DELEGATES.

Mr. SECOMBE. I rise, Mr. President, to a question of privilege. I hold in my hand a copy of the St. Paul Weekly *Pioneer & Democrat*, and the supplement to the same, containing an account of the proceedings of an organized meeting now in session in this city, in the other end of the Capitol, amongst which proceedings I find the following preamble and resolutions:

WHEREAS, There is official evidence, from the report of the committee on Credentials, that there is a majority of the legally elected members to the Constitutional Convention who claim and are entitled to seats in this Convention; and,

WHEREAS, The members ascertained to be legally elected, from the official documents before this Convention, represent more than sixteen hundred majority of the popular vote of the Territory; and,

WHEREAS, There is now a body of men who have taken possession of one of the Halls of this Capitol and call themselves the Constitutional Convention, without any legal authority or right, although some of those connected with that assemblage may be entitled to seats in this Convention, but who have not seen proper, as yet, to present their credentials, or to attend the meetings of this body, since the regular adjournment of the Convention, on Monday, the 13th instant; therefore,

Resolved, That the assemblage of persons now occupying Representative Hall of this Capitol styling themselves the 'Constitutional Convention,' is without the authority of law or of Parliamen-

tary usage, and revolutionary in its character, and, therefore, should not be recognized by the electors of this Territory, nor by the officers of the General or Territorial Government.

Resolved, That a copy of the above preamble and resolution, together with a copy of the report of the committee on Credentials, be forwarded to the President of the United States, each of the heads of the departments of the General Government, each of the members of the Senate and House of Representatives of the United States, and to the Governor, Secretary, Marshal, Librarian, Auditor and Treasurer of the Territory of Minnesota.

Mr. President, under ordinary circumstances I should not deem it the duty or the privilege of myself, as a member of this Convention, or of any other member of this Convention to notice either newspaper articles published in regard to this Convention or its proceedings, or the doings of any body of citizens of the Territory, either organized or unorganized. But, Mr. President, I deem that the proceedings to which I have referred, are peculiarly a matter of privilege as relating to this Convention, first from the nature of the assemblage to which I have referred, and second, from the peculiar nature of the preamble and resolutions which I have read. I find in this paper a list of names of the persons who purport to be members of that assemblage, and amongst them I find the following federal officers: the Secretary and acting Governor of this Territory; one of the Judges of the Supreme Court of this Territory; one of the Indian Agents of this Territory; and one of the Custom House Officers of this Territory. I also find among them the names of the following Territorial officers: the Attorney General of the Territory, and seven members of the present Legislative Assembly. In addition to that, I find the following ex-Federal officers: one ex-Governor; two ex-Judges of the Supreme Court of the Territory; one ex-delegate to Congress; one ex-Custom House Officer, and one ex-Land Officer; besides all those I find the following ex-Territorial officers: one ex-Territorial Treasurer; two ex-Probate Judges, and nine ex-Members of the Legislative Assembly. In all, constituting twenty-six members, out of the fifty-four who purport to be members of that meeting, representing every branch of the Government of this Territory—the Executive, the Judicial and the Legislative.

It seems to me, therefore, that the assemblage to which I have alluded, and whose proceedings I propose to consider, possess more than ordinary interest. In the second place, the nature of the proceedings to which I have alluded, it seems to me, calls especially for the consideration of this Convention. Here is a declaration by a body of individuals, constituted, as I have shown, of the various Federal and Territorial officers of this Territory, to a very great extent, that this Convention is here met without the authority of law or parliamentary usage, that it is revolutionary in its character, and recommending that it should not be recognized by the electors of this Territory, nor by the officers of the general or Territorial Government; and also providing that a copy of the preamble and resolutions shall be transmitted to the officers of the general government—the President and Heads of Departments—to every member of Congress, and to the various Territorial officers of this Territory. It can have, Mr. President, but one object, and that is to nullify, so far as it is within the power of the General and Territorial Governments, the acts of the people of the Territory of Minnesota assembled by their delegates in this Convention. It seems to me to indicate that there is a disposition and intention on the part of the national government represented in that meeting by officers appointed by the Federal Executive, to thwart and nullify the action of this Convention authorized by the action of Congress. It is also evident that there is an intention and disposition upon the part of the Territorial officers of this Territory, so far as they are concerned, to nullify the action of this body.

Now I do not propose to examine into all of the causes assigned by the assemblage of persons to sustain the position they have taken. Those causes are various, and they are sent forth at large in the speeches which accompany the preamble and resolution, and have been more or less treated on in this Convention. But I find, sir, prominent among the reasons which are offered why this Convention is without the authority of law or parliamentary usage and revolutionary in its character, that there are six members of this Convention—four from the Third Council District, and two from the Eighth Council

District,—who hold seats in this Convention and participate in its deliberations without authority of law. And, sir, being myself one of those delegates, I propose to examine a little into this matter, and ascertain whether or not the allegations made are true.

Mr. President, if this Convention is in session here without authority of law, or of parliamentary usage, and revolutionary in its character, it is to be shown and proved by testing its Constitution and its proceedings by some law and by some parliamentary usage. Now I find that upon this resolution which I have read, ex-Governor Gorman made the following remarks:

"My object, in the remarks I shall submit to-day, will be to place before the country the reasons for our action thus far, and to show, so far as I have a knowledge of the facts and the ability, distinctly and plainly, why it is that we occupy our present position.

"*First.*—The Congress of the United States passed an act, authorizing the people of the Territory of Minnesota to form a Constitution and State Government, preparatory to their admission into the Union as a State. To carry out that act, the Legislature at its special session, called in part for that purpose, passed an act, in aid of the Enabling Act of Congress, prescribing how many persons should be elected as Delegates to the Constitutional Convention. That act prescribed that there should be elected two persons for each Councillor and two for each Representative. The Enabling Act provided that there should be elected tow Delegates for each member of the Territorial Legislature. It has been contended that under that provision, we had the right to elect only tow for each Representative which, doubling the number of thirty-nine, would make seventy-eight in all. The Legislature, at its extra session in May, however, took a different view of the Enabling Act, and construed it, as I have said, to give us two Delegates for each Representative, and two for each Councillor.

That either the Enabling Act of Congress or the act of the Territorial Legislature is binding absolutely upon the people in their sovereign capacity, no American Statesman has, to my knowledge, attempted to assume. On the contrary the authorities all go to show that the Enabling Act of Congress is passed to give conformity and regularity to the proceeding—to indicate the mode of procedure. The act of the Legislature is to give conformity and regularity to the elections and to avoid anything like revolutionary action on the part of the people. Therefore the act of Congress and the act of the Territorial Legislature, are mere forms—in the language of Mr. Buchanan—a mere scaffolding, which, when the edifice is completed, is of no further use."

Now, Mr. President, I contend, in the first place, that the act of Congress authorizing the people of the Territory of Minnesota to form for themselves a Constitution and State government, is binding upon the people. I contend that the Congress of the United States has the supreme power and the supreme right of controlling by legislation, the Territories of the United States; and I deny that the people of the Territory have any legal right to do anything in contravention of the act of Congress. I deny that the people of the Territory have the right to abrogate the form of government which the Congress of the United States has seen fit to provide for them, without the consent of Congress; and here I must, of course, be understood as meaning all legal rights under the Constitution and laws of the United States; for there is a right greater and above all Constitutions and all laws—the right of revolution. But, Mr. President, may the time be far distant when the people of Minnesota shall feel the necessity of appealing to that ultimate resort.

I say, then, that the Enabling Act of Congress is binding upon the people of this Territory. But, taking the ground assumed by Ex-Governor GORMAN, that the only object of that act was to give conformity and regularity to the elections, and to avoid anything like revolutionary acts upon the part of the people—I say, taking that ground, we are to determine whether or not this body is in session here without authority of law or parliamentary usage; and is a revolutionary body, by ascertaining whether or not it has conformed to the provisions of the Enabling Act of Congress, under which high call this Convention is now in session, pursuing its labors.

And here let me remark that Ex-Governor GORMAN has not quoted the Act as it passed Congress, and in a very material respect. Says the Ex-Governor, "the Enabling Act provides that there should be elected two delegates for *each member* of the Territorial Legislature." Now, the Act of Congress referred to there, is as follows:

"That on the first Monday in June next, the legal voters in each representative district, then existing within the limits of the proposed State, are hereby authorized to elect two delegates for each representative to which said district may be entitled according to the apportionment for representatives to the Territorial Legislature.

I propose, first, to inquire in what sense the term "representative," in the Enabling Act, is used—in other words, what construction is to be given to that Act, by this Convention? The word "representative," in its general signification, includes any agent or deputy of another or others, standing in his or their place, and invested with his or their authority. The term has, however, in the United States, acquired a technical signification, which indicates a member of the lower or more popular branch of the Congress of the United States, and of the Legislative Assemblies of the different States and Territories.

Now, Mr. President, it has been contended by some—and I know not but what it is contended by some members of this Convention, that the term "representative," as here used, does include, not only "representatives," but "councillors." That such a construction has been given to it, I am well aware; but that that construction has the support of either reason or analogy, I deny. In the first place it is not reasonable to suppose that Congress intended to include in the term "representative," representatives and councillors. The House of Representatives in every legislative body is presumed to, and does contain those agents or deputies of the people, who are sent from the smallest local divisions of the Territory to be represented; and more immediately represent the popular will of the people, the number of representatives being larger than the number of members of the upper branch. The districts are proportionately smaller, and in that way the voice of the people is more popularly represented. And it is reasonable to suppose that the Congress of the United States, in establishing a basis for the election of delegates to this Convention, whereby the people of the Territory of Minnesota were to frame for themselves a Constitution and State Government, that it would be their intention and desire to have those delegates elected in the most popular manner.

Now, it is well known, and especially in this Territory, does this principle apply—that while the members of the House of Representatives come from small districts—not representing, severally as could be desired, the will of the people throughout the Territory—yet that they do so to a much greater extent than does the House, called the Council. As an example I will point to the upper subdivision of the first council district, which sends to the House of Representatives one member, but at the same time sends one councillor. Also the western subdivision of the ninth council district—the county of Olmsted—which, while it sends one representative, also sends one councillor. On the other hand, the second council district, and the eleventh council district of this Territory, while they each send five representatives, send each but one councillor. Now, Mr. President, it is obvious to every one that a basis of that nature would be the furtherest from the popular basis. Then, I say it is not reasonable to suppose that Congress intended to include in the term "representative," representative and councillor.

In the second place a construction which includes in the term "representative," also the term "councillor," has not the support of analogy. I undertake to say, without the fear of successful contradiction, that in no Act of Congress, and in no Act of any Legislative body, can the term be found with the construction that has been attempted to be given to it here. On the other hand, I find numerous instances analogous to this, where the distinction has been made. I refer, as an example, to section first of the second Article of the Constitution of the United States, wherein provision is made for the appointment of elector of President, which is as follows:

"Each State shall appoint in such manner as the Legislature thereof shall direct, a number of Electors, equal to the whole number of Senators and Representatives to which a State may be entitled in Congress, &c."

Now, the intention of that article was not only to include the popular representation of the people of the State, but also to include the idea of a representation of the State sovereignty. It was there the intention of the framers of the Constitution to unite those two principles; and yet they did not use the word "Representatives in Congress." and thereby include Representatives and Senators, but they used the words "Senators and Representatives.

It is provided in section four of the Organic Act of the Territory, that—

"The Legislative power and authority of said

Territory shall be vested in the Governor and Legislative Assembly. The Legislative Assembly shall consist of a Senate and House of Representatives. The Council shall consist of nine members having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The House of Representatives shall at its first session consist of eighteen members possessing the same qualifications as prescribed for members of the Council, and whose term of service shall continue one year. The number of the Councillors and Representatives may be increased by the Legislative Assembly from time to time, in proportion to the increase of population, Provided, the whole number shall never exceed fifteen Councilors, and thirty-nine Representatives."

Such is the provision made by Congress for the election of Councillors and Representatives in the Territorial Legislature. It is a provision which Congress must be supposed to have had in view when they passed the Enabling Act, and when they used the term "representative." In the fourth section of the Enabling Act, we find the following provision:

"That in the event said Convention shall decide in favor of the immediate admission of the of the proposed State into the Union, it shall be the duty of the United States Marshal for said Territory to proceed to take a census or enumeration of the inhabitants within the proposed State, under such rules and regulations as shall be prescribed by the Secretary of the Interior, with the view of ascertaining the number of *Representatives* to which said State may be entitled in the Congress of the United States; and said State shall be entitled to one *Representative*, and such additional *Representatives* as the population of the State shall, according to the census, show it would be entitled to according to the present ratio of representation."

Now it must be evident to the mind of every member of this Convention, that Congress in the section did not include in the term "Representative," also the term "Senator," for it provides that "said State shall be entitled to *one* Representative" at any rate, and we are aware that *every* State is entitled to *two Senators*.

The term "Representative" in this section must therefore be used in its technical sense. Now is it fair and reasonable to suppose that the Congress of the United States, in the same act, when speaking of the Territorial Legislature of Minnesota, composed of Councillors and Representatives would include in the term "Representative" members of both branches of the Legislative Assembly, and when speaking of the Congress of the United States, consisting of Senators and Representatives, would use the term "Representative" in another signification? I therefore say that the construction attempted to be given to the terms "Representative" in the Enabling Act, has not the support of analogy.

Then, that point being gained, the Enabling Act of Congress provided for the election in each representative district in this Territory of two Delegates for each Representative to which that district was entitled. Now the Territory of Minnesota, at the time the election took place, was divided into certain districts, which districts elected each one or more Representatives to the Territorial Legislature, and although the districts may be called, in some instances, council districts, yet they are in fact representative districts. In other words they are the districts of the Territory, electing and sending to the Territorial Legislature, by themselves, one or more Representatives.

We also find, Mr. PRESIDENT, that at the special session of the Territorial Assembly of this Territory, last held, upon the recommendation of the Governor of this Territory, the Legislative Assembly passed an act in aid of the Act of Congress; and by that act amongst other things, it was provided that upon the same day provided for by Congress, an election shall be held in the various precincts of the Territory for the purpose of the election of certain delegates; and it is specially provided in that act, that *each Counell* district in the Territory shall elect two Delegates for *each Councillor*, and that *each representative* district shall elect two Delegates for each *Representative*. Now, so far as the act of the Legislature contravenes the act of Congress, I contend that it is simply inoperative. So far as it is in the aid of the act of Congress, I contend that it has a certain degree of validity and binding force.

Now, I contend, Mr. PRESIDENT, that there was provision made by law for the election of *two classes* of Delegates. In the first place it was provided that each representative district should elect two Delegates for each Representative in accordance with the act of Congress, that the authority vested in the people to elect those Delegates emanated from the supreme

power of the land to whom alone it belongs to provide for the abrogation of Territorial Governments, and the establishment of any other form of government, and that the authority to elect those Delegates, emanating from the supreme power, vested in those delegates the authority of the principal. On the other hand, whatever right the Legislature of the Territory might have had to authorize the election of Delegates, of course the Delegates elected under that authority, would possess no greater authority than the principal. But without discussing or attempting to define the difference between the two authorities, I contend that there is a difference, and a radical and material difference; that while the Convention would be bound to receive the Delegates elected by virtue of the provisions of the act of Congress, it would be a matter entirely within their discretion to admit or reject the others. Therefore, I say that there not only was a distinction between those two classes of Delegates, but there was an absolute necessity that that distinction should be made and kept by the voters that undertook to elect Delegates, and by all the officers of the Territorial Government who were to return those elections, in order that this Convention might have before them all matters necessary for their final determination.

Now, Mr. PRESIDENT, it is contended by the gentleman who spoke to the preamble and resolution which I have referred to, that there are sitting in this body and deliberating therein, six members who received certificates from the proper officers and took their seats in this body upon the ground that although they did not receive a majority of the whole number of votes cast in their districts, yet that they did receive a majority of the votes cast for the particular office which they claimed to hold, and as I observed before, four of those Delegates hold seats in this Convention to represent the St. Anthony council and representative district.

I propose, now, Mr. PRESIDENT, to go back a little and examine one of the provisions of the Enabling Act, which reads as follows, in section three:

"Which election shall be held and conducted, and the returns made, in all respects in conformity with the laws of said Territory regulating the election of representatives."

It is here specially pointed out by Congress, that the election of those Delegates, and the returns of the elections, are to conform in every respect to the provisions of the laws of this Territory regulating the election of Representatives. I propose now to examine those laws; and the first point to which I call the attention of the Convention, is to the provision regulating the action of voters in casting their votes: section thirteen of page forty-seven of the statutes of Minnesota, which provides as follows:

"Every elector shall vote by ballot, and each person offering to vote shall deliver his ballot to one of the judges of election in presence of the Board. The ballots shall be a paper ticket which shall contain, written or printed, or partly written or partly printed, the names of the persons for whom the elector intends to vote, and shall designate the office to which each person so named is intended by him to be chosen; but no ballot shall contain a greater number of names of persons designated to any office than there are persons to be chosen at the election to fill such office.

I next read section thirty of the same chapter, which prescribes the duties of the Judges of Election:

"The ballots and poll lists agreeing or being made to agree, the board shall then proceed to count and ascertain the number of votes cast, and the clerks shall set down in their poll books the names of every person voted for, written at full length, the office for which such person received such votes, and the number he did receive, the number being expressed at full length, &c."

Section twenty-three of the same chapter provides:

"On the twentieth day after the close of any election, or sooner, if all the returns be received, the Clerk of the Board of County Commissioners, taking to his assistance two Justices of the Peace of the County, shall proceed to open said returns, and to make abstracts of the votes in the following manner, &c.——And it shall be the duty of the said Clerk of County Commissioners immediately to make out a certificate of election to each person having the highest number of votes for members of the Legislative Assembly, County and Precinct Officers respectively, and to deliver said certificate to the person entitled to it, on his making application to the Clerk at his office."

I next read section forty-eight, of the same chapter:

"In all elections for the choice of any officers, unless it is otherwise expressly provided, the person having the highest number of votes for any office shall be deemed to have been elected to that office."

"The Clerk of the Board of County Commissioners and Register of Deeds, as aforesaid, shall not construe the statutes concerning the opening of the election returns, so as to decide all matters of law and facts themselves; but the Clerk and Register aforesaid, and the two Justices they shall call to their assistance, shall constitute a Board, a majority of whom shall decide all matters of disagreement; and the said Board shall disregard technicalities and misspelling or abbreviations of the names of candidates for office, if it can be determined from such votes for whom they were intended."

Section forty-three, of the same chapter, provides:

"No returns shall be refused by any Clerk of the Board of County Commissioners, for the reason that the same may be returned and delivered to him in any other than the manner directed in this chapter; nor shall he refuse to include any returns in his estimate of votes for any informality in holding any election or making returns thereof; but all returns shall be received and the votes canvassed by such clerks, and a certificate given to the person or persons who may, by such returns, have the greatest number of votes."

Now, Mr. President, we have in the first place a provision of law requiring that each voter should designate upon his ballot *the particular office* for which he intended to designate the particular person. We have a provision also that no ballot shall contain the names of a greater number of persons for any office than there are to be elected to that office. In the second place we have a provision of statute requiring the Judges of Election and the Clerks of Election, in the returns which are to be made to the Registers of Deeds of the counties, to designate in writing, in full, the names of each person voted for, *and the office* for which he was voted for. In the next place, we find a provision that the canvassing board shall be made up of the Register of Deeds and two Justices of the Peace of the county, and that it shall be the duty of that board to pass upon all questions of law and fact which come before them in their canvass; and we find that it is the duty of the Register of Deeds to issue certificates of election to those persons *found by this board of canvassers* to have received the highest number of votes for any particular office.

Now, Mr. President, I propose to examine and ascertain whether or not the four delegates in this Convention who represent the third Council District and the Representative District comprising the same, hold seats in this Convention in conformity to law. In the first place then, the delegates from St. Anthony hold their seats in this Convention by virtue of having presented to this Convention certificates of election, issued in due form of law by the proper officer and under the seal of the proper county. I propose, so far as I discuss further points, to take such evidence as I find in the speeches and in the proceedings to which I have referred, and in reply to which I am speaking. I find in the proceedings of the public meeting to which I have alluded the following, being a part of the report of a committee on credentials:

"Your committee would further state that the following certified copy of an abstract of the vote polled in the Third Council District, upon which Messrs. B. B. MEEKER, WM. M. LASHELLS, C. A. TUTTLE, and C. L. CHASE, claim to be duly elected, was referred to the committee for examination, viz:

"At an election held at the City Council Room, in the city of St. Anthony, in St. Anthony Precinct, in the county of Hennepin, and Territory of Minnesota, on the first day of June, 1857, the following named persons received the number of votes annexed to their respective names, for the following described offices, to wit:

"B. B. MEEKER received for delegate to the Constitutional Convention, five hundred and twenty-four votes.

"SAMUEL STANCHFIELD received for delegate to the Constitutional Convention, four hundred and ninety-five votes.

"RICHARD FEWER received for delegate to the Constitutional Convention, four hundred and ninety-six votes.

"WILLIAM M. LASHELLS received for delegate to the Constitutional Convention, four hundred and ninety-seven votes.

"C. L. CHASE received for delegate to the Constitutional Convention, five hundred and twenty-one votes.

"C. A. TUTTLE received for delegate to the Constitutional Convention, five hundred and nine votes.

"S. W. PUTNAM received for delegate to the Constitutional Convention, from the Council District, four hundred and ninety-one votes.

"J. H. MURPHY received for delegate to the Constitutional Convention, from the council district, four hundred and ninety-six votes.

"D. A. SECOMBE received for delegate to the Constitutional Convention, from the representative district, four hundred and seventy-two votes.

Section forty-nine, of the same chapter, says:

"D. M. HALL received for delegate to the Constitutional Convention, from the representative dis-

triet four hundred and eighty-five votes.

"L. C. WALKER received for delegate to the Constitutional Convention, from the representative district, five hundred and three votes.

"P. WINELL received for delegate to the Constitutional Convention, from the representative district, five hundred and twelve votes.

"WINELL received for delegate to the Constitutional Convention, from the representative district, two votes.

"LASHELLS received for delegate to the Constitutional Convention, from the representative district, two votes.

"O. SHASSE received for delegate to the Constitutional Convention, from the representative district, one vote.

"F. FUKER received for delegate to the Constitutional Convention from the representative district, one vote.

"JOHN WENSINGER received for delegate to the Constitutional Convention one vote.

"H. WINELLS received for delegate to the Constitutional Convention, one vote.

"WALKER received for delegate to the Constitutional Convention, one vote.

"Some White Man received for delegate to the Constitutional Convention, one vote.

"PUTNAM received for delegate to the Constitutional Convention, one vote.

"Certified by us, JAMES B. GILBERT, MOSES W. GETCHELL, STEPHEN COBB, Judges of election.

"Attest: H. B. TAYLOR, DAN. M. DEMMON, Clerks of election.

"OFFICE OF REGISTER OF DEEDS,
Hennepin County, M. T.

"I certify that the above written is a full, true and accurate copy of the original, as it appears on file at this office.

"GEO. W. CHOWEN,
"Dep. Reg. Deeds, Hennepin Co., M. T.
"Minneapolis, June 15, 1857.

I next read a certified copy of the abstract of the Canvassing Board:

"*For Delegates to the Constitutional Convention:*

"B. B. MEEKER received	524	votes.
SAMUEL STANCHFIELD received	495	"
RICHARD FEWER received	496	"
WM. LASHALLS received	497	"
C. A. TUTTLE received	509	"
C. L. CHASE received	521	"

"*For Delegates to Constitutional Convention, from Council District:*

"J. H. MURPHY received	496	votes.
S. W. PUTNAM received	491	"

"*For Delegates to Constitutional Convention, from Representative District:*

"D. A. SECOMBE received	472	votes.
D. M. HALL received	485	"
L. C. WALKER received	503	"
P. WINELL received	512	"

"This sheet contains an abstract of the votes returned from the St. Anthony precinct, as being cast for delegates to the Constitutional Convention, at an election there held on the first day of June, 1857. The Board of Canvassers are unanimously of the opinion that the votes cast for delegates to said Convention, without designation of either Council or Representative District, could not legally be counted by them; and they therefore determine that J. H. MURPHY and S. W. PUTNAM, are entitled to certificates of election, as having received the highest number of votes cast for delegates to the Constitutional Convention, from the Council District, and that D. A. SECOMBE, D. M. HALL, L. C. WALKER and P. WINELL, are entitled to certificates of election, as having received the highest number of votes for delegates to the said Convention from the Representative District.

"[Signed] JOHN C. McCAIN, } Justices of
E. S. JONES. } Peace.

"Attest: C. G. AMES, Clerk Board of Commissioners.

"Hennepin County, M. T., June 10th, 1857."

Now, Mr. President, I claim that the proceedings in regard to the canvassing, and in regard to the issuing of certificates of election to those members were in all respects in conformity with the provisions of the law, and that any other course, had it been taken by either of the officers would have been illegal. I claim that there were two classes of delegates to be elected, that those classes of delegates were to be elected by virtue of two authorities, and that there was a radical difference in the nature of the office to which they were elected, that it was the duty of every voter to designate the particular office for which he intended to designate each man he voted for; that it was the duty of all the the judges of election to preserve that distinction; that it was the duty of the canvassers to preserve the same distinction; and that had they done in any other way they would have palpably violated the law.

Now, I propose, in addition to this, to show that in this particular instance not only was it the law, but that the Democratic party of St. Anthony knew it was the law, and previously to the election, and subsequent to the election so contended. I read first from the St. Anthony *Express* of May 16, 1857, the only "Democratic" paper in the county of Hennepin, and the accredited organ of the party, "Suggestions in view of the Coming Election."

"It being the universally received construction in all parts of the Territory, of the Enabling Act, at least for the purposes of this canvass, that each precinct is entitled to double the number of Delegates in the Convention which it has both of Rep-

resentatives and Councillors in the Legislature, St. Anthony should make her nominations and elections accordingly; else she might fail of having her due representation. Certainly such would be the case should she only choose Representative Delegates, while other precincts choose Councillor Delegates in addition, and also secured seats for them. At the same time it should be borne in mind that the Convention, like any other legislative [body], will decide the number, as well as judge of the qualifications of its own members; and that when assembled it may take it upon itself to construe the Enabling Act, and to suit its own notion, caprice or convenience, without the remotest reference to what the people have thought or done in the premises. The Convention, as regards its rules of action or its organization, will be entirely irresponsible; and if it should hold that only Representative Delegates should be admitted to seats, the Councillor Delegates would be compelled to retire. A thousand certificates of election, signed by a thousand inspectors of election would not avail them. Would it not then be the part of wisdom to prepare for, or guard against whatever may happen? Would it not be the part of wisdom and prevent misunderstanding and embarrassment, to designate or distinguish in some simple, plain manner the two classes of Delegates, either as Representative or Councillor, on the tickets themselves? After such a precaution, it would be known who must retire, should the Convention as is not at all improbable, put a construction upon the Enabling Act differing from the popular construction. And thus much time and contention and many heart-burnings might be saved."

In the same paper of May twenty-third, previous to the election, it contained an article entitled "Doings of the Democratic Nominating Convention." It is as follows:

"Meeting called to order by J. B. Gilbert, Esq.

"Chose R. L. Joice President, and J. S. Demmon Secretary.

"The name of Delegates were then called, and all appeared but Mr. Cassitt in First Ward, James Holmes in Second Ward, and J. A. Lennon in Third Ward. Said vacancies filled by substituting Mulligan for Cassitt, Lochran for Holmes, and Endy for Lennon.

"The proceedings of the last meeting was then read.

"On motion of Mr. Gilbert, the Convention then proceeded to nominate candidates to the Constitutional Convention by ballot.

"On motion of Mr. Lochran, it was voted to proceed to nominate singly.

"On motion of J. B. Gilbert, the first ballot to be considered informal.

"On motion of Mr. Lochran, voted that the first two nominated shall be candidates at large.

"Whereupon, B. B. Meeker, Wm. Lochran, R. Fewer, S. Stanchfield, La Schell and C. A. Tuttle were unanimously nominated.

"J. S. Demmon Secretary."

And on the same day is published at the head of its columns:

"DEMOCRATIC NOMINATIONS.

DELEGATES TO THE CONSTITUTIONAL CONVENTION.

Delegates at Large.

B. B. MEEKER. WILLIAM LOCHRAN.

District Delegates.

RICHARD FEWER. SAMUEL STANCHFIELD.

W. M. LA SCHELL. C. A. TUTTLE."

I would here state that subsequent to the nomination, and before the election, Mr Lochran, nominated as Delegate as Large, declined, and Mr. SECRETARY CHASE was put in his place. On the day of election, however, the ticket came out differently, and I will here state what is within my personal knowledge, that they did come out so differently because Judge MEEKER himself went personally into the printing office *on the holy Sabbath day*, and superintended the printing of those tickets in a different manner from what the nomination had been heard.

On the sixth of June, subsequent to the election, but previous to the canvass, the following article appeared in the same paper:

"According to current report the Black sharpers made a point of the alleged fact that the Democratic ticket was printed in solido, and without any classification of candidates in words, either as Council or Representative Delegates; and thereupon base a claim for certificates to MURPHY and PUTNAM, who were distinguished on the printed ballots of the "Republicans" as "Delegates at Large." Well, there is no call here for a waste of ink or of breath. The entire matter is resolved into a question of intent and understanding; and when we arrive at the common intent and general understanding in the premises, we have the only solution. And in the outset it may be asserted and very easily proved that the names of Judge MEEKER and C. L. CHASE were, the Saturday before the election, at the head of the columns of the St. Anthony *Express*, under the appellation printed in legible characters, of "Delegates at Large." This of itself meets the objection raised, of a want of an understood and received distinction in the public mind as to which were to be considered Council and which Representative Delegates."

And on the thirteenth day of June, subsequently to the canvass there appeared in the same paper the following article:

"Where is Judge MEEKER? Why is he not here pulling his own chestnuts out of the fire."

Now, Mr. PRESIDENT, as I said before, not only did the law require the designation to be

made upon the tickets between the two classes of Delegates, but also the Democratic party of that district knew that it was so required; made their nominations in that way, published them in that way by their own showing, on the Saturday previous to the Monday on which the election took place; and that subsequently to the election they undertook to offer an argument that because they so published them, the voters would be presumed to have it understood that they were voting for MEEKER and CHASE as Delegates at Large, and the others from the representative district, and that the Board of Canvassers were bound to take that as evidence, in opposition to the evidence of the tickets which the voters had cast.

Again, the inquiry in regard to the whereabouts of Judge MEEKER, shows three things; In the first place, that they understood that there were some chesnuts in the fire, and liable to be burned; second, that these chesnuts belonged particularly to Judge MEEKER; and in the third place, charging him with not being there to attend to them—or in other words, charging Judge MEEKER with having produced the state of the case under which they were laboring; that there was trouble and that he had brought it about.

Now, I propose to say a word in regard to what is alleged as the inconsistency of this Convention in this matter. It is asserted that while the distinction between the two classes of Delegates had been recognized by somebody—and it is charged upon the Convention—that the Convention themselves have disregarded that distinction in other cases; and the case of the gentleman from the Eleventh Council District (Mr. SHELDON) is referred to as one instance. In that case, Mr. PRESIDENT, it appears by the evidence before this Convention, that Mr. SHELDON actually received in the Council District for which he was a candidate, three votes more than R. P. RUSSELL; that every one of those votes contained the distinction, but that the judges of election, in making the returns to the register of deeds of their precincts, failed to preserve that distinction, and that consequently the canvassing board, being bound by law to recognize and preserve that distinction, could not go behind the returns, and they returned Mr. RUSSELL as duly elected to this Convention; that this Convention having the power to go behind the certificate, Mr. RUSSELL refusing to appear here, and Mr. SHELDON claiming the seat, the Convention determined that he having received the greatest number of votes cast for that particular office, was entitled to a seat in this Convention.

It has also been asserted that twenty-eight members of this Convention, sitting in this body were voted for in the same manner as were the Democrats in the Third Council District. Mr. PRESIDENT, this Convention knows, of course, nothing about that matter, but I have simply to say that in each of the districts in which that thing occurred both tickets were in the same form, both parties making a mistake, as I understood it, in the printing of their tickets, and consequently one had no preference over the other, and that the register of deeds in those counties did perfectly right in giving the certificates to those having the highest number of votes.

The same principle will apply to the two seats that are said to be illegally held by Delegates from the Eighth Council District. Not only in that district was it necessary to make the distinction because there were two classes of Delegates to be elected, but also because there were two Councillor Delegates to be elected in different districts from the different Representative Delegates. The counties of Houston and Mower, being themselves separated by the county of Fillmore, constituting one of the subdivisions of the Eighth Council District, are entitled to one Councillor, while the county of Houston is entitled to two representatives, and the county of Mower one. Consequently under the Enabling Act the county of Houston would be entitled to elect four Delegates and the county of Mower would be entitled to elect two Delegates, and under the Territorial Act the Council District of Houston and Mower together were entitled to elect two Delegates. It is alleged that two delegates sitting in this Convention received a less number of votes than two others to whom certificates of election were refused. But by the report of the committee on Credentials, before referred to, it appears that the two gentlemen sitting in this body, whose seats, it is alleged, are illegally held by them, received the highest number of votes in the

council district for the particular office of delegate for that council district, and that they were, with only slight exceptions, the only persons who received any votes for that office.

Now, Mr. President, I suppose gentlemen have been uneasy while I have been speaking, because they wish to go on with the business of the Convention. I wish to progress with our business as much as they do, and I will do the best I can to go on with it. But, sir, while the action of this Convention, in their accepting the certificates of every individual who has brought them here, as the only evidence that could be received, have taken no other than the regular and legal course, yet I deem it my privilege and my duty to place this matter upon the record, in a position to show that not only has this Convention pursued the steps required of them by law, but also that all canvassing and returning officers of the Territorial government have pursued the same steps. And although I am aware that it is, at times, superfluous to raise a point before it is made in Convention, yet I trust that it will be admitted by all gentlemen that there are times when it is proper that they should go beyond that. I have not asked this body, nor would I desire or consent to ask this body to take any action upon the matter. What has been said has been said as a matter of knowledge, as a member of this Convention. I have further to say that, as a matter of equity, the delegates from the Third Council District, whose seats have been alleged to be held illegally, themselves believe and know that they not only hold their seats here in strict legal regularity, but also as the representatives of quite a large majority of all the legal voters in their districts, and had it been their fortune to have had them contested, they would have shown it to the world. The average majority, counting the votes as passed without any distinction, with the Democratic ticket, is fifteen; and I assert, without the fear of successful contradiction, that a simple examination of the poll books of Manomin, Minneapolis, St. Paul, and St. Anthony, would find, without a reasonable doubt to this Convention, or to anybody, that all the delegates sitting in this body from the Third Council District, represent at least fifty majority of the legal voters of that District.

REPORT OF COMMITTEE.

Mr. MESSER, from the committee on Impeachment and Removal from Office, made the following report, which was read a first and second time, and laid upon the table to be printed, viz:

"SEC. 1. The House of Representatives shall have the sole power of impeaching civil officers for corrupt conduct in office, or for crimes or misdemeanors, but a majority of the members elected shall be necessary to direct an impeachment.

SEC. 2. Every impeachment shall be tried by the Senate. When the Governor or Lieutenant Governor is tried, the Chief Justice of the Supreme Court shall preside.

When an impeachment is directed, the Senate shall take an oath or affirmation truly and impartially to try and determine the same according to the evidence. No person shall be convicted without the concurrence of two-thirds of the members elected.

Judgment, in case of impeachment shall not extend further than removal from office; but the party convicted shall be liable to punishment according to law.

SEC. 3. When an impeachment is directed, the House of Representatives shall elect from their own body three members, whose duty it shall be to prosecute such impeachment. No impeachment shall be tried until the final adjournment of the Legislature, when the Senate shall proceed to try the same.

SEC. 4. No judicial officer shall exercise his office after an impeachment is directed, until he is acquitted.

SEC. 5. The Governor may make provisional appointment to fill a vacancy occasioned by the suspension of an officer until he shall be acquitted, or until after the election and qualification of a successor.

SEC. 6. For reasonable cause, which shall not be sufficient ground for the impeachment of a Judge, the Governor shall remove him on a concurrent resolution of two-thirds of the members elected to each House of the Legislature; but the cause for which such removal is required shall be stated at length in such resolution.

SEC. 7. The Legislature shall provide by law for the removal of any officer elected by a county or township or school district, in such manner as to them shall seem just and proper."

RESOLUTIONS.

The following resolution, offered yesterday, was taken from the table and read:

"*Resolved*, That this Convention adjourn without day on Friday, the seventh day of August next."

Mr. BOLLES moved that the resolution be laid on the table.

The motion was agreed to.

The resolution offered by Mr. MCCLURE yesterday, was also taken from the table and read, and then, on motion of Mr. MCCLURE, the same was again laid upon the table.

PROPOSITIONS OF CONGRESS.

Mr. BATES, I would enquire what disposition has been made of the report in reference to accepting the propositions of Congress?

Mr. SECOMBE. It was considered in committee of the Whole, reported back to the Convention with a recommendation that it be adopted, and was then laid upon the table,

Mr. BOLLES moved that the report be taken up at this time.

The motion was agreed to, and the report was taken from the table and read.

Mr. MORGAN. I move that the rules be so far suspended as to allow this report to be referred to the committee on Arrangement and Phraseology.

The motion was agreed to, and the report was accordingly so referred.

BOUNDARIES OF THE STATE.

Mr. SECOMBE. I move that the Convention resolve itself into a committee of the Whole, to take into consideration the report of the committee upon Boundaries.

Mr. COLBURN. I should not object to that motion were it not from the fact that when the matter was last before the Convention, the gentleman from Winona (Mr. WILSON) stated that he wished to present a minority report, and at that time it was deferred in order to enable him to do so. That gentleman is not present now, though he has something prepared in the nature of a substitute for the report. For that reason I think we had better not go into committee now.

Mr. SECOMBE. The gentleman from Winona stated, at the time the matter was up before, that he would make his minority report the next day, and that he would ask no further delay.

Mr. COLBURN. The gentleman intended to make a minority report, but he has since concluded to offer a substitute instead. He is prepared to do so as soon as he returns. He has gone to his rooms for a special purpose.

Mr. MCKUNE. I hope the gentleman will withdraw his motion. There are quite a number who feel interested in this matter, but they are not now prepared to meet it.

Mr. COGGSWELL. The gentleman from Winona was present this morning, and stated to me that there was no probability that this report would be reached until this afternoon, and that it was indispensably necessary that he should go to his room to transact some business. He desired me to state, if this report should be called up, that he desired that it should be postponed until after dinner, as he desired to be heard upon a proposition he had to submit. Knowing some of the positions he occupies, and sympathising with him somewhat, I hope the report will not be taken up now.

Mr. SECOMBE. I have no personal wishes upon the subject, and as it seems to be the desire of the Convention, I withdraw the motion.

Mr. COLBURN. As there seems to be no business before the Convention, and as there are several committees which have business to transact, I move that the Convention adjourn until half past two o'clock.

The motion was agreed to, and thereupon (at half past eleven o'clock) the Convention adjourned.

AFTERNOON SESSION.

REPORT OF COMMITTEES.

Mr. BILLINGS, from the committee on State Officers other than Executive, made the following report, which was read a first and second time and laid on the table to be printed.

SEC. 1. There shall be elected at each general biennial election a Secretary of State, State Treasurer, Attorney General, State Auditor and Superintendent of Public Instruction for the term of two years. They shall keep their offices at the seat of Government, and perform such duties and receive such compensation as may be prescribed by law.

SEC. 2. Their term of office shall commence on the first Monday of January succeeding their election, and every second year thereafter.

SEC. 3. Whenever a vacancy shall occur in any of the State Offices, the Governor shall fill the same by appointment, until the next election of Representatives, by and with the advice and consent of the Senate, if in session.

SEC. 4. The Secretary of State, State Treasurer, and Auditor, shall constitute a Board of State Canvassers, to determine the result of all elections for Governor and State Officers, and such other Officers as may be referred to them.

SEC. 5. In case two or more persons have an equal and highest number of votes for any Office, as canvassed by the Board of State Canvassers, the Legislature in joint Convention, shall choose one of said persons to fill such office.

SEC. 6. When the determination of the Board of State Canvassers is contested, the Legislature in Joint Convention shall decide which person is elected.

COMMITTEE ON ENROLLMENT.

Mr. McCLURE moved that a committee of three on Enrollment be appointed by the Chair.

Mr. HARDING. I would inquire if such a committee has not already been appointed?

The PRESIDENT. A committee on Engrossment has been appointed.

Mr. McCLURE. It is usual to have both an Enrolling and Engrossing Committee. The committee on Arrangement and Phraseology have too much business thrown upon their hands.

The motion was agreed to, and thereupon the PRESIDENT appointed as such committee Messrs. FOLSOM, CLEGHORN and RUSSELL.

Mr. McCLURE, from the committee on Arrangement and Phraseology, reported back reports number one and eight, being the reports upon the Preamble and Bill of Rights, and upon the Legislative Department, and asked that they be referred to the committee on Enrollment.

They were so referred.

BOUNDARIES OF THE STATE.

On motion of Mr. COLBURN, the Convention resolved itself into a committee of the Whole, (Mr. THOMPSON in the chair) upon the report of the committee upon Boundaries. The report was read as follows:

"It is hereby ordained and declared that the State of Minnesota doth consent to and accept of the boundaries prescribed in the act of Congress entitled an act to enable the people of Minnesota to form a Constitution and State Government preparatory to their admission in the Union on an equal footing with the original States, approved March 3d, 1857: Beginning at the point in the centre of the main channel of the Red River of the North where the boundary line between the United States and the British possessions crosses the same; thence up the main channel of the said River, to that of the Bois des Sioux River; thence up the main channel of said River, to Lake Traverse; thence up the centre of said Lake to the southern extremity thereof; thence in a direct line to the head of Big Stone Lake; thence through its centre to its outlet; thence by a due south line to the north line of the State of Iowa; thence along the northern boundary of said State to the main channel of the Mississippi River; thence up the main channel of said River, and following the boundary line of the State of Wisconsin until the same intersects the Saint Louis River; thence down the said River to and through Lake Superior on the boundary line of Wisconsin and Michigan, until it intersects the dividing line between the United States and the British possessions; thence up the Pigeon River, and following said dividing line to the place of beginning."

Mr. WILSON. I was a member of the committee which made this report, though I did not concur in it. I intended to make a minority report, but will content myself with offering the following substitute:

"The boundaries of the State of Minnesota shall be as follows:

Beginning in the middle of the main channel of the Missouri River at the point where the forty-sixth parallel of north latitude crosses the same; thence down the middle of the main channel of said Missouri River to the western boundary of the State of Iowa at a point opposite the mouth of the main channel of the Big Sioux River; thence up the middle of the main channel of said Big Sioux River to the north west corner of the State of Iowa; thence east along the northern boundary of said State to the main channel of the Mississippi River; thence up the main channel of the Mississipi River following the boundary line of the State of Wisconsin until it is intersected by the parallel of forty-six degrees north latitude; thence west along said parallel of forty-six degrees until said parallel intersects the middle of the main channel of the Missouri River at the point of beginning."

Mr. McKUNE. I hope this substitute will be adopted. Its claims are so just that little need to be said to convince the mind of any man that great benefits would be derived from adopting it. The boundaries contained in the Enabling Act are only recommendatory. If that be true, then the people of Minnesota are perfectly free to establish their own boundaries. The boundaries proposed in the substitute include nearly all the inhabited portion of Minnesota, and nearly all that ever can become populous. By adopting this boundary we not only get rid of large tracts of unfertile lands, but of conflicting interests, which will require distinct and separate legislation. Legislation which is applicable to and necessary for the protection of a farming community, is not applicable to, or necessary for a mining, trapping or hunting district. No

man will deny but that the agricultural interest north of the parallel of forty-six degrees is dwarfed to insignificance, nor will they deny that lumber is the main product of the Territory north of that line. The mining region is very small. The fur trade is of considerable consequence, and almost all its benefits are confined to this City. The people north of that line, by this division, will be deprived of none of the commercial advantages they now enjoy, nor shall we be deprived of the large lumber interest which we now enjoy. The commerce created by the mining interest of the present Territory is confined to the shores of lake Superior, and goes from there directly east, and consequently it does not benefit the Territory of Minnesota generally one dollar. The City of St. Paul or any other trading post will enjoy the same amount of trade from the north that they do now. No man will pretend to say that St. Paul will receive a less share of the fur trade than she does now, or that the rivers flowing south will be turned north so as to deprive us of the lumber trade. By this division, the people north of the line will have all the commerce and advantages they now possess, and at the same time be separated from the conflicting interests which would forever be a curse to the Territory north of the parallel of forty-six degrees.

I have now shown you that no portion of this Territory will lose anything by this proposed new boundary, and now let us see what benefits the south will derive from such a boundary. The proposed boundary stretches from the St. Croix River to the navigable waters of the Missouri, taking in an area of Territory almost equal to that included within the boundaries proposed by the Enabling Act, south of forty-six degrees of latitude, and includes a rich agricultural country second to none in this Territory, and drawing with it all the commerce and trade of all the numerous branches of the Missouri River, and also the rich coal fields lying along that River, which will furnish a rich trade that cannot go south of us, if included within our State, but must come directly through the State by the east and west roads, making Minnesota not only one of the richest agricultural, but one of the richest commercial States in the Union.

Mr. HAYDEN. I did not think of making any remarks upon this question, but I must confess that I am somewhat astonished, under the circumstances, that it should be introduced in this manner. There are a number of reasons why I am opposed to that substitute being adopted in place of the original report.

In the first place, it is very important, if we are framing a Constitution with the expectation that the people will adopt it, and that we shall be admitted as a State into the Union under it, that we should frame that Constitution under the Enabling Act, and without departing from it one way or the other. It is much more important under the circumstances in which we are placed, than it otherwise would be, and I hope that, as members of this Convention, we shall feel that importance and act accordingly.

But it has been alleged here, that if we go according to the Enabling Act, that there will be conflicting interests in the State—that the lumbering, the mining, the commercial and the agricultural interests will all conflict. Now, sir, I view that subject in a very different light. I believe that those interests instead of conflicting, will necessarily combine to make us what we desire to be—a prosperous and powerful State. It is just what is demanded and necessary to make us one of the most powerful States in the whole union.

Another thing is to be taken into consideration. We have, according to the Enabling Act, met and elected delegates to this Constitutional Convention, living within the limits of the proposed State. Now if this substitute is adopted, there are men in this body who necessarily should go home, for they have no business to assist in framing a State government for a State to which they do not and cannot belong.

Mr. McKUNE. Will the gentleman inform me what members live north of the limits proposed by the substitute?

Mr. HAYDEN. There were men living north of that line, who were elected to this Convention, but who have not taken their seats. They have as much right to claim a seat here as any of us.

I hope, Mr. President, that we who are assembled to represent the interests of the people of this Territory, will see the importance of rejecting each and every substitute, and of

going forward and framing our Constitution under the Enabling Act.

Mr. WILSON. I hope the case is not so hopeless a one as some would seem to think. I hope in seeing the votes recorded upon this amendment to see that there is not a great majority against an east and west line; and I hope still further to see a majority in its favor. If not, I say there are charges which are to me inexplicable in every sense. Now, I am in favor of the boundary contained in the substitute in almost every light that I can view it. I am in favor of it because I believe the people of this Territory want it. I believe the people demand this boundary. When we take a map of our Territory and see how it is populated, and then look at the representatives that population sends to this Convention, I cannot see how any person can draw any other conclusion. Houston and Winona Counties where are they? In favor of the boundaries contained in the substitute. Here lies Fillmore County and where is she? In favor of an East and West line. Where stand almost all the southern counties? Where but on the side of an East and West line.

Mr. WATSON. I beg the gentleman's pardon, but I must interrupt him. I can inform the gentlemen that Fillmore County is not in favor of an East and West line.

Mr. WILSON. Well I never heard that before. I have always understood that she was arrayed with all the southern counties against this North and South line.

Mr. WATSON. More than two-thirds of the inhabitants of Fillmore County are in favor of a North and South line.

Mr. WILSON. Well I suppose I stand corrected, as the gentleman ought to know more about that county than I do, but this is the first time I ever heard of it in my life. Almost the entire population of southern Minnesota I understand to be in favor of it, and I believe that quite a majority of the whole people of the Territory are also in favor of an East and West line. I believe too that the opposition to this line believe a majority of the people are in favor of it, because if they did not, they would, like honest men, have permitted the people to express their sentiments fairly upon the question. But they dare not do it. Now how was this boundary procured? I state it, for the information of the members of this Convention, that the present apportionment under which we now act was procured by these Pembina members. These Pembina members had the control, the balance of power in the Legislature, and they said to their friends, "we will not vote so and so un- "less you give us three members in the Legis- "lature," and that too without taking a census at all as is done in the remainder of the Territory. It is notorious that they did not deserve one in either House—their population would not warrant it. The demand was granted by those who always traded with Pembina, and they got three representatives when they should have had none. Now, sir, we came up to the Legislature last winter seeking a new apportionment, that we might get a fair representation in this Constitutional Convention, and in legislative bodies hereafter. Well one of these Pembina members takes himself away, hiding himself in some obscure hole in this city, and then some of our bretheren near St. Paul demands a call of the Council, and thereby keeps it in session so that no business can be done, in order that no new apportionment may be made. That is the condition in which we stand now. I state these facts upon the information of gentlemen whose words are entitled to all confidence, and therefore I believe them. The very fact that they acted so palpably unjust convinces me that they believed that fairness in the matter would have given us an East and West line. The very knowledge that such fraudulent means have been used to defeat the will of a majority of the people of the Territory makes me the more anxious and determined to have this boundary if it is possible.

But, say some—and this is the argument by which some gentlemen here, really in favor of an East and West line, will try to solace themselves in voting for a North and South line—the Enabling Act does not permit us to have it. Now I am astonished when sensible men like every man in this Convention, bring forward such an argument, and more astonished when men known to be good lawyers bring up such an argument. It is a question which I will not argue here, that we have the right without the Enabling Act, to go on and frame a State Constitution. Now

in what part of that Act is there any restriction found? In no section or line.

I think I know something about the origin of this Enabling Act, and I think I know when the first petition was got up for such an act. What was the use of petitions, said many. The reply was, if we go on without an Enahling Act, the Territory will have to bear the expense; but if Congress passes an Act, the expense will be defrayed by the General Government. That was the argument I heard in favor of it. Now I take it for granted that we have the right to go on and form a Constitution without an Enabling Act, and I say there is not a word in the Enabling Act passed, restricting us in any sense. It merely affirms our power to do what we had the power to do without it. The very title shows that it is not an Act restrictive. If then we are not restricted by that Act, I hope no man will raise a cry again about the Enabling Act.

Let that pass then, and let us put the matter upon its merits. Let us have some reason why the East and West boundary proposed in the substitute is not the best. I say with my friend who spoke before me, (Mr. McKUNE)—and I endorse every word he said—that it seems to me perfectly clear that the greatest good to the greatest number of the people of Minnesota, would be derived from a boundary different from that proposed by the report of the committee. Why? A very good book says, "two cannot walk "together unless they be agreed." That is true. We have had proof ample of it. The acts of our legislative bodies last winter are proof sufficient. The acts of the legislative body that made our present apportionment is proof in point. And if you want more proof, the events which have transpired within this Hall within the last three weeks will furnish it. Those same Pembina members representing a diversity of interest, and none in common with us, come up again to disturb our harmonious action. Take a State of the length of this, with men living at one extreme who follow different pursuits from those living at the other extreme—or rather, following no pursuit for a living. Take a population composed of trappers, hunters, miners, lumbermen—a sort of *omnium gatherum* of all classes—living in one extreme, and an agricultural class living at the other extreme, and their interests are, and necesarily will be diverse, and they can have no sort of feeling in common. There will be distrust one of the other, and legislative enactments which suit the one will not suit the other. Take the case which has lately transpired here at the capitol. A certain party sees that it has not carried its point in the election of Delegates to this Convention. What does it do? What will it do in future in similar cases? It resorts to Pembina, and will again. She will do any thing for them.

In the very face of this Enabling Act, which they say so much about, they declare that Pembina must have six members of this Convention. Is there any pretence for it? Is there any justice in it? Not at all. It is not necessary to argue that point with this Convention. But Pembina, very willing, very ready and anxious to injure and thwart the designs of Southern Minnesota, is willing to be made the pliant tool for anything. St. Paul, I will say, if we have the boundaries of the State as proposed by the report of the committee, will have the balance of power in her hands, and if we can judge the future from the past, I never wish St. Paul to have the balance of power. I repeat it—because I was taken to task for saying it once before—I never wish St. Paul to have the balance of power.

It is true southern Minnesota is populous, but St. Paul with these northern trappers and miners, will always have the balance of power, and when she wishes anything she will make bargains with Pembina and will get what she wants right or wrong, as she has heretofore done. That is one reason why I wish a different boundary and one which will not of necessity give St. Paul the balance of power. I speak not of the individual inhabitants of St. Paul. She has, like every other place her good and her bad men. But I speak of her politically and only of her politically—I mean the political leaders of St. Paul. I never wish them to have any control in any State of which I am a citizen. But how can we deprive her of it, without changing our boundaries?

Another thing, it is always best to make a State as nearly square as possible. That is something that does not need proof. We do

not want for a State, a strip of country extending from the British possessions down to the Iowa line. We do not want to pay our legislators, and all our other officers as much in mileage as we do for per diem compensation. If gentlemen will look at the boundaries of the State as proposed by the report of the committee they will see that we shall have to do that. We should have our State in as compact form as possible so that our feelings and interests should be identical, and those who advocate such a boundary as is proposed by the committee must see some very good reason for neglecting every dictate of right and prudence in the formation of such boundaries. I cannot see them.

Now why should we not have such boundaries as I have proposed? Why should we have unnatural boundaries here. Is it that we may have the trade of a large State passing by the side of, rather than through it. Gentlemen say here are the mining and the lumbering interests. What does that amount to? The mining interest and the lumbering interest are good when they add to the wealth of the State, if they develope wealth within the State. That we should have lumber growing in the State, and mining carried on in the State is no good argument. We cannot fear any duty or prohibition on their importation, nor does the product of the forest or the mine because it came from without the State. Does our wealth consist in our pineries, in our minerals, or is it to be found in the flourishing farms of Minnesota? It is only necessary to have the question asked, to have it answered in our own minds. When men talk of putting our State in this unusual shape for the purpose of making it more wealthy, it is for them to prove that it will be so.

I do not ask for a State such as I propose, on account of its political aspects. That argument has been thrown out as the reason why Southern Minnesota wishes an East and West line. I say it comes with a bad grace from those who advance it. It is assertion without proof. It is, too, an assertion which needs proof, and very strong proof. They ought to show us the great necessity, before they accuse us of being governed by selfish motives and the great advantage of having a State in so unusual and inconvenient a shape, or else we must believe they have some local or selfish object to attain by their proposed line.

I hope gentlemen will not longer hide themselves behind the Enabling Act. Let them be manly, and come out upon this subject, boldly and frankly, according to their real sentiments. Do not permit a few interests inside or outside to shape our course, and above all things do not seek to scare us with this Enabling Act. That act, I say again, takes from us no right we ever possessed without it, and no man in this Hall will say that Minnesota has no right to come into the Union without the Enabling Act.

But, say some, we are in peculiar circumstances, and we should endeavor to frame a Constitution with a view to its adoption. Very well; then I say adopt this East and West line, and you will have the whole of Southern Minnesota with you, notwithstanding my friend on my left thinks his county is not in favor of such a measure. I have meditated upon that subject much, and knowing the feelings of the people of my section of the Territory, I do say you are not *sure* of their votes unless you do adopt different boundaries from those reported by the committee. Mark my words: You will always find me, here, and after I leave this Hall, working for the success of this Constitution; but I do say, I do not feel that certainty of its adoption with a North and South line, that I would with an East and West line. I hope gentlemen will take this matter into consideration. Take a map of the State, look at it, and see where its population mostly is, and I think any man would naturally infer that an East and West line is the line which the interest of the people demand.

Mr. STANNARD. I feel called upon, in defence of my own district and constituents, to say a few words upon this very important question. The great interest my constituents have at stake in this matter, may well justify any exhibition of deep feeling upon my part. I am bound to have more feeling upon the subject than the gentleman from Winona. The East and West line does not propose to disfranchise any of that gentleman's constituents, while it does a portion of mine. And why should they be cut off? What good reason can be assigned? Let the gentleman take a survey of the history of this Terri-

tory. When the pineries of the St. Croix were first opened in 1838, the only inhabitants of this Territory were trappers, hunters, and lumbermen; and if I may be allowed to say it, yea, those very trappers and lumbermen of northern Minnesota, have made southern Minnesota what she is—made it, somewhat as the Almighty made the earth—out of nothing. There was a time in the history of our Territory—and that not a long time back—when there were no people in this Territory except those living north and east of the Mississippi river.

Now let us look at the acts of our Legislature, and see if she has been partial to southern Minnesota. It was notorious, as gentlemen well know, that our first Legislature was said to be under the influence of the fur interest. I know something about our history, as I have been in the Territory for seven years. At the time the last apportionment was made, the Legislature was nearly equally divided. The fur interest insisted upon the old apportionment, while the farmers along the Mississippi, and the lumbermen, were disposed to have a new apportionment. Gentlemen have seen fit to reflect upon Pembina. But it was through the Pembina votes that southern Minnesota got anything like a fair apportionment, and representation, although I am not here to justify all the acts done in that regard.

I come from a lumbering district, and I cannot sit here and allow gentleman from any portion of the Territory to say anything which will detract from the character of my constituents. I know they have good heads and noble hearts.

They forego all the privileges of society one half of the year for the purpose of developing those means which are fast making us a great and wealthy country. I presume that southern Minnesota is all that gentlemen claim for it. I do not deny it, but I had supposed that this question was long since disposed of, and that hereafter we should move along hand in hand. Living in the northern portion of the Territory, I am willing that southern Minnesota should have a preponderance in our deliberative bodies. I am willing to throw myself upon their good judgment, and tender mercies in that respect. But we, of the St. Croix river, claim that we were the first to open the soil of Minnesota to productive industry, and we claim that we should be heard in determining the boundaries of our future State.

It may be that a majority of the people of the Territory are in favor of an East and West line. If so, I do not know it. But there is one thing I would remind gentlemen of, and that is that there is an overruling power in Congress so to divide our Territory, not only to suit us, but with a view to the formation of other States. Congress certainly must feel disposed to prescribe the lines of every State more in accordance with justice and generosity than the people themselves of any State. I desire to say nothing now about that which I regard to be the wealth of the northern portion of our Territory. I believe that a variety of pursuits tends to promote happiness, and the more of the native elements of wealth we have within our borders the more sure we are of success and prosperity.

Mr. MANTOR. I propose to trouble the Convention with but few remarks. I am opposed and ever have been opposed to the North and South line, and I have felt chagrined that Congress should undertake to force upon us a boundary which is not what we desire. When I look at the proposed boundaries of Minnesota, stretching away far to the northwest some five or six hundred miles, I cannot but think that there is a possession there which is not very desirable. I am in favor of the line proposed in the amendment. Take that line and contrast it with that prescribed by Congress, and what will be the difference between the two States? Minnesota with the boundary proposed by my friend from Winona, would be an agricultural State, possessing all the advantages of a rich and inexhaustible soil and a salubrious climate; while on the other hand at the extreme northern limit there is a country great and inconceivable in extent, but one that would hang upon our interest and prosperity like an incubus. Wisconsin changed her condition from a Territory to a State under an Act of Congress similar to ours, yet her Constitutional Convention did not consider themselves bound by the boundaries therein prescribed. They looked upon it as an open question, and it is an open question with us. The interests of northern Min-

nesota are not identified with ours and they cannot be. I hope the amendment of the gentleman from Winona will be adopted.

Mr. NORTH. Mr. Chairman, I dislike to cut off any gentleman from making a speech on this question, but when I remember the urgent suggestions of last evening, to crowd along the business, and get through some time, it strikes me that we ought to make better progress.

I call for the question on the substitute.

The substitute was rejected.

Mr. COGGSWELL. Mr. Chairman, I now offer the following amendment:

"*Provided, however*, That the following alteration of the aforesaid bouudary be and the same is hereby proposed to the Congress of the United States as the preference of the State of Minnesota; and if the same shall be agreed to by the Congress of the United States, that the same shall ever remain obligatory on the people of Minnesota without any further act upon her part, viz: commencing at the north-east corner of the State of Iowa where the same terminates in the channel of the Mississippi river; thence west along the northern line of the said State of Iowa to the line of longitude numbered ninety-seven degrees west; thence north along said line of longitude till the same reaches the forty-sixth degree of north latiude; thence due east along said line of latitude, till the same reaches the centre of the channel of the St. Croix river; thence down the main channel of the said river to the centre of the main channel of the Mississippi river; thence down the main channel of said Mississippi river to the place of beginning."

Mr. GALBRAITH. Mr. Chairman, I move that the committee now rise and report the article and amendment to the Convention, with a recommendation that the amendment be indefinitely postponed.

Mr. COGGSWELL. Mr. Chairman, before the question is put, I wish to make a few remarks in regard to the amendment.

Mr. GALBRAITH. I withdraw the motion for the gentleman.

Mr. COGGSWELL. Mr. CHAIRMAN:—I am now fully satisfied as to the prevailing sentiments of this committee, upon this East and West line question, and what will be the fate of amendment. Nevertheless, it is well known that I represent here, together with my friend upon my right (Mr. DAVIS) four counties which are more or less interested in this subject—particularly the county of Nicollet. And it being my duty to reflect the sentiments of my constituency, and her views in regard to this matter, I should prove recreant to the trust reposed in me, were I to omit to discharge my duty in this respect.

Mr. CHAIRMAN:—I know that this commit-mittee are exceedingly anxious to come to a vote upon this amendment, and intend to kill it by an overwhelming majority, but I hope they will indulge me a few moments, and I assure them I will be short.

Now, gentlemen, open your maps. My amendment proposes a line that commences at the North-East corner of the State of Iowa, thence West to the seventy-seventh degree of West longitude, thence North until it reaches the forty-sixth degree of North latitude, thence East along said line of latitude until it reaches the St. Croix river, thence down the main channel of said river to the center of the channel of the Mississippi River, thence down the Mississippi to the place of beginning. In my judgment, that line and those boundaries are the proper ones. Why? First, because it makes the State nearly square. Second, because it makes a State about the size of Iowa—a little smaller than Missouri—about the size of Arkansas—about the size of Illinois—a little larger than Indiana—a little smaller than Ohio—in fact, about the *right* size, Sir.

There can be no objection to it, then, on the ground of its not being of the right size, or of its being in a convenient shape, or in as compact form as possible. No objections so far.

Next, it comprises a tract of Territory which at no very distant day will be entirely settled up, by a thriving, industrious, intelligent population. Sir, it has been my good fortune to travel somewhat over the western portion of the tract embraced in my amendment, during the month of June last, and I can say from my own personal observation that all along on the head waters of the Des Moines, on the eastern branches running into the Big Sioux, or the Big Sioux itself, (most of which is inside of these limits) on the Big and Little Waraja, and indeed the whole country there, is as rich and fertile as ever lay out of doors. And who ever lives to see ten years from to-day, will see upon nearly every quarter-section in that whole country a thriving and prosperous farmer, and they,

Sir, are the back bone, the sinew of our Territory. In reference to this matter of St. Paul, which has been lugged into this debate, and the controlling influence which she has, or has not heretofore exercised, I have nothing to say. If we are to be ruled or controlled by any of the *Saints*, it makes no difference to me whether it be by *Saint* Paul, or *Saint* Anthony, or *Saint* Cloud, or *Saint* Peter Sir, I do not believe the people of Minnesota will suffer themselves to be controlled by any of these sanctimonious gentlemen. But I take the high ground that in carving out our State, and fixing her boundaries, it is our duty to look somewhat into the future, and say that we will make her a rich and populous State—a farming State—an agricultural State. As I have said, nearly every quarter-section of land within these limits is capable of supporting a good farmer—a good farmer with a good large family, and every farmer has a large family or ought to have one. (Laughter.)

Now, Sir, when we go North of this line of forty-six degrees, what kind of a country do we find? A lumbering country, you all admit—a country of vast and extensive forests—reaching to the British Possessions, a distance of two hundred and forty miles in a direct line. I do not pretend to say they are not valuable—that their lumber is not with us a desideratum, that it will not add to the comfort and convenience of our inhabitants, that it will not increase our wealth. But I do say, Sir, that all this will be brought about, and to the same extent with the boundaries that I propose, or in other words, Mr. CHAIRMAN, that this imaginary line will not operate as an everlasting boom, stopping all the logs and lumber at the line of forty-six degrees North latitude, and that forever after we must build our houses of bass-wood, poplar, and burr oak.

It is also substantially admitted here upon this floor, that this northern region will never be settled up by a permanent, home abiding population. When on a former occasion we spoke of changing the day of holding our general election, from the Tuesday next succeeding the first Monday of October, to the first of November, the cry was raised, "why "gentlemen we have a large class of persons "who start for the lumber regions just before "that time, and stay during the winter, and in "the spring return, and if you do this, you de- "prive a large class of our citizens from exer- "cising the privilege of the elective franchise." What does this mean? Does it not mean that this whole lumber region will never be occupied by any other than a floating population, a transient population, a population existing one day and extinct the next? Not so south of this line. Here you meet a class of persons who are always at home, who have around them well cultivated fields, ample means for their sustenance the year round, and ten times the aggregate wealth which you find around the cabin of the isolated lumberman. And, sir, if you would condescend to consider the question of taxes, the raising of revenue for the purpose of defraying the legitimate expenses of the State government, and go upon both sides of this proposed line you would soon discover the difference. How much could you raise north of it? Suppose you wanted means to pay your Governors, your Secretaries of State, your judges, your members of the Legislature, to build your State houses, your Court houses, your jails, your everything else, where will you go to get them? Sir, I will tell you where you will get them: you will get them among the farmers who will live inside the boundaries proposed by my amendment. Where nothing is, nothing can be obtained. Where an abundance is, there is the place to ask for favors. Now, sir, I wish to know what it is that has caused such a defection in the ranks of our East and West line men, what has come over the spirit of their dreams to cause them to right-about face on this question.

Sir, I do not pretend to be posted in the history of this subject, and I do wish I could blot from my memory some matters now thereon indelibly impressed. I do wish I could not remember the time, which has not long since gone by, when St. Paul herself recommended the adoption of an East and West line—when even the *Pioneer and Democrat* recommended it.

Mr. STANNARD. A bad recommendation, that.

Mr. COGGSWELL. Perhaps so, Mr. Chairman; but I wish I could forget all this, for charity's sake, and for the purpose of showing that many gentlemen who now oppose

this plan of boundary, are free from gross inconsistencies.

I was trained in that school which taught me to believe that principles were eternal no matter how often men may change; and I ask, gentlemen, how it is, that this doctrine of an East and West line was correct a short time ago, and wrong now? If it was right when advocated by Governors, by Legislatures, by the public press, by private citizens, by a majority of the people of southern Minnesota, why, in the name of Heaven is it wrong for me to take the same position? And with what kind of a grace can those men charge me with attempting to commit a gross fraud upon the people, upon the best interests of this Territory, with attempting to engraft into the Constitution an arrangement which will defeat it before the people?

I do not see how it is that men can change so often; I do not see how it is that men can so skillfully "play upon a harp of a thousand "strings." I tell you, Mr. Chairman, that the history of our Territory for the next fifty years to come, will tell you in thunder tones, that our action here to-day upon this subject was unwise—was clearly wrong.

You may gag us with your previous questions—you may sit uneasy while listening to a rehearsal of these facts, but I would be untrue to my nature, and to a large class of my constituents, were I to sit by and see the report of the committee adopted, and not enter my protest against it. There are other points to which I would like to refer, namely: To the binding force of the action of this Convention at its commencement; to the probability of our Constitution being defeated by the people with my amendment attached, but I promised to be short, and I quit.

Mr. GALBRAITH. I now move that the committee rise, report the article to the Convention and recommend its adoption.

The motion was agreed to.

So the committee rose, and the Chairman reported accordingly.

The question being on concurring in the recommendation of the committee.

Mr. WILSON. Mr. President, I wish to offer this paper as a substitute for the report.

The substitute was was read by the Secretary—the same as that submitted by Mr. WILSON in committee of the Whole.

The yeas and nays being demanded, ordered and taken upon the adoption of the substitute, the result was, yeas fifteen, and nays thirty-seven as follows:

Yeas.—Messrs. Anderson, Balcombe, Billings, Butler, Coggswell, Coe, Davis, Gerrish, Mantor, McCann, McCune, Mills, Robbins, Thompson, and Wilson.—15.

Nays.—Messrs. Aldrich, Ayer, Baldwin, Bates, Bartholomew, Bolles, Cleghorn, Colburn, Coombs, Eschlie, Folsom, Galbraith, Hayden, Harding, Hudson, Hanson, Holley, Kemp, Lyle, Lowe, McClure, Messer, Morgan, Murphy, North, Phelps, Perkins, Putnam, Peckham, Russell, Stannard, Secombe, Smith, Vaughn, Walker, Watson, and Sheldon.—37.

So the substitute was rejected.

The question recurred on concurring in the recommendation of the committee of the Whole.

Mr. MORGAN. Mr. Chairman, I offer the following amendment, merely for the sake of accuracy in the description:

"In the tenth line, after the word 'said,' and before the word 'river,' insert 'Bois des Sioux.'"

Mr. COGGSWELL. Mr. President, I would inquire whether the boundaries here proposed are not word for word the same with the Enabling Act?

The PRESIDENT. The Chairman of the committee, who made the report can answer.

Mr. PERKINS. The words of the report are the same as in the Enabling Act.

Mr. MORGAN. I am aware of that. The amendment does not change the sense. It only describes the line more distinctly.

The amendment was rejected.

Mr. MORGAN. Mr. Chairman, I also offer an amendment in the fifteenth line—after the word "State," insert the words, "of Iowa."

The amendment was rejected.

Mr. MORGAN. I have also an amendment for the sixteenth line—after the word "said," and before the word "river," insert the word "Mississippi."

The amendment was rejected.

And then, on the motion of Mr. THOMPSON, the rules were so far suspended as to allow the article to be referred to the committee on Arrangement and Phraseology.

And it was so referred.

ENGROSSMENT.

Mr. ALDRICH, from the committee on the Executive Department, now reported the article (report No. two from that committee) as

correctly engrossed; and on his motion, it was referred to the committee on Arrangement and Phraseology.

ORGANIZATION OF CITIES AND VILLAGES.

On motion of Mr. CLEGHORN, the Convention resolved itself into a committee of the Whole, Mr. NORTH in the Chair, to take into consideration the article submitted in the report (No. nine) from the committee on the organization of Cities and Villages.

The CHAIRMAN read the article, as follows:

SEC. 1. The Legislature shall grant an Act of Incorporation establishing the form of a City Government for any place or portion of Territory, which at the time does not contain a resident population of not less than three thousand. Nor shall the Legislature grant any special act for the incorporation of any town or village which does not at the time contain a resident population of not less than five hundred.

Mr. STANNARD. Mr. CHAIRMAN: I move to strike out from the section all after the word "thousand" in the fourth line.

Mr. BOLLES. Mr. CHAIRMAN: I move to strike out the whole. I look upon it as a mere nullity.

Mr. BOLLES' motion was agreed to. So the section was stricken out.

On the motion of Mr. THOMPSON, the committee rose, and the Chairman reported the amendment to the Convention.

The question being on striking out the section—

Mr. MORGAN said: Mr. PRESIDENT: I wish to say that the committee on this subject were doubtful from the first, whether this whole matter might not be safely left with the Legislature. But, on consideration, it was thought better to submit a report, and allow the Convention to say whether it were best to restrict the Legislature in the matter of granting charters to cities and towns. It is well known, that heretofore the Legislature have granted town and village charters to a considerable extent. I understand that forty or fifty were granted last winter, though those laws have not yet seen the light; and that a great many of these charters have been for localities where there were no inhabitants; towns whose locations had never been visited, and whose exact geographical position are not yet known. If the Convention do not see fit to put any restriction upon the Legislature in such cases, the committee will be perfectly content. Their only design was to bring the question up.

Mr. MURPHY. Mr. PRESIDENT: As this report has been drawn up with a great deal of labor and care, and has doubtless cost the committee a good deal of time and thought, I hope it will be treated with due respect by the Convention. (Laughter.)

Mr. STANNARD. I have no objection to the first part of the section, but the last, I think, is wrong. The object in obtaining grants of charters for towns in the Territory has been to avoid the fee of the Judge of the Court, where the title has been in him, or to come through him—that proprietors might enter under the act, and save that expense.

The amendment of the committee of the Whole was adopted.

So the report was wholly stricken out.

EDUCATIONAL INTERESTS, &C.

On motion of Mr. NORTH, the Convention resolved itself into a committee of the Whole (Mr. MCCLURE in the chair) upon the report of the committee on Educational Institutions and interests.

The report was read by sections for amendment. (For report see proceedings of July twenty-ninth.)

SEC. 2. The proceeds of all lands that have been, or that may hereafter be granted by the United States for the support of schools, which may be sold or disposed of, and all estates of deceased persons who may have died without leaving a will or heir, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the Legislature shall provide, shall be exclusively applied to the following objects, viz:

First.—The support and maintenance of common schools in each school district, and the purchase of suitable libraries and apparatus therefor.

Second.—The residue shall be appropriated to the support and maintenance of academies and normal schools, and suitable Libraries therefor.

Mr. MCKUNE. I move to strike out from the second clause of that section all after the words "shall be," and insert in lieu thereof the words "added to the perpetual fund," so that the clause will read "the residue shall be added to the perpetual fund." I move the amendment in order to prevent incorporations from getting hold of the money which rightfully belongs to the common schools. It is quite common for academies and normal

schools to be established by incorporated companies, and they are often able to crush out the common schools of whole townships, while at the same time there may be many children in those townships who are not able to avail themselves of those high schools. I would rather see the residue added to the perpetual fund for the support of common schools.

Mr. BALDWIN. I am opposed to the amendment. This section proposes that the fund shall be first appropriated to the support and maintenance of common schools in each school district, and the purchase of suitable libraries and apparatus therefor, and then the residue is to be applied to the support of academies and normal schools. Now I believe that academies have a good effect upon common schools, and tend to raise the standard of education. Normal schools are for the purpose of educating teachers for common schools. These are very important interests in the State, and it seems to me that they should receive aid from the State.

Mr. FOLSOM. As the matter now stands in the section, I do not see how the fund can well be divided without much contention, and for that reason I prefer to see the residue go into the perpetual fund.

Mr. GALBRAITH. I would inquire if the term "common school" would not include normal schools and academies, if established by legislative provisions? The common schools, I suppose, are to be established by a law of the Legislature, and they can doubtless grade those schools and establish some having the character of academies. It is not necessarily to be presumed that no branch higher than reading, writing and arithmetic, are taught in common schools. I think the term "common school" may cover the whole ground.

Mr. COGGSWELL. I move to amend the amendment by inserting the words "common school" before the word "fund," so that it shall read, "common school fund."

Mr. McKUNE. I accept the amendment.

The amendment as modified was agreed to.

Mr. PECKHAM. I move to amend the first subdivision of the section by striking out the words "in each school district." It seems to me we ought not to inaugurate a system of district schools at the very commencement of our State organization. A more unfortunate arrangement for common schools has never been adopted than that of the district system. The system of graded schools is much better. If we are to have township organizations, it seems to me the schools should be left to the management of towns, instead of smaller portions, called districts. Then a graded system can be adopted, by which the children and youth of the State will have the privilege of enjoying not only the primary instruction of common schools, but that of higher schools, in which they may be fitted for the university. I hope such a system will be adopted as will give to the youth of the State the best possible instruction the State can give.

The amendment was agreed to.

"SEC. 3. The Legislature shall within five years from the adoption of this Constitution provide for and establish a system of common schools, which shall be as nearly uniform as practicable, whereby a school shall be kept without charge for tuition, at least three months in each year, in every school district in the State, and all instruction in said school shall be in the English language, and no sectarian instruction shall be allowed therein."

Mr. BILLINGS. I move to strike out all after the word "practicable" down to and including the word "language."

Mr. BOLLES. I move to amend the amendment by simply striking out the words "and all instruction in said schools shall be "in the English language."

Mr. BALCOMBE. I am opposed to the amendment to the amendment, and to the original amundment also. I hope the committee will not pass over this matter in haste. This is a very interesting subject to me and ought to be to every member upon this floor. A well digested system should be adopted. And I remark here, that it seems to me that we were rather hasty in taking up this report this afternoon, as it has but just been put upon our desks, and we have not had time to look it over, reflect upon it, and contrast it with any other system we may have in our minds. If any gentleman offers an amendment I hope he will be able to give a good reason for it, and have it discussed thoroughly. I myself was opposed to the other amendment which was made. I am in favor of the old fashioned school district system, and in favor of free schools as much as three months in the year.

But I do not profess to be sufficiently well posted on this subject to discuss it now, and if any gentleman is familiar with the minutia of this matter I hope he will give us his views upon it.

Mr. THOMPSON. I agree with the gentleman from Winona. This report has been but just laid on our tables. I move that the committee rise and ask leave to sit again.

The motion was agreed to.

The committee accordingly rose and reported progress and asked leave to sit again.

Leave was granted.

Mr. CLEGHORN. I move that this report be made the special order of the day for Monday next.

Mr. COLBURN. I object to that for the reason that we have no other report before us with which we are any more familiar than with this, and in fact I do not know as we have any other that we can act upon to-morrow. I think a vote of this kind would be equivalent to passing the day in idleness.

Mr. NORTH. We do not need a great deal of time for the examination of this report. We can be prepared to act upon it to-morrow, and if we put off the time any longer each of us will come armed with so many amendments that we should not get through with it in one day.

The motion was lost.

And then on motion of Mr. NORTH, (at five o'clock) the Convention adjourned.

EIGHTEENTH DAY.

SATURDAY, AUGUST 1st, 1857.

The Convention met at nine o'clock, A. M.

The journal of yesterday was read and approved.

LEAVE OF ABSENCE.

Mr. COLBURN from the committee on Leave of Absence made a verbal report, recommending that leave of absence be granted to Mr. BARTHOLOMEW until Tuesday the fourth day of August.

Leave was granted.

AMENDMENT OF RULES.

Mr. THOMPSON. I wish to suggest the propriety of amending our rules so that after the second reading of a report, and its consideration in the committee of the Whole it may be referred to the committee on Arrangement and Phraseology. The reports would then be amendable upon the suggestion of that committee. Rule thirty-seven now reads:

"Every article when read a third time and passed shall be referred to the committee on Arrangement and Phraseology."

I move to strike out the words "third time "and passed," and insert "a second time and "considered in committee of the Whole."

Mr. BATES. It seems to me we shall get into trouble by pursuing that course. How can that committee perform their duty in reference to these reports, until they are perfected?

Mr. THOMPSON. My view of the matter was that by referring the reports to that committee after a second reading and consideration in committee of the Whole, they could report them back to the Convention, with a recommendation that they be amended in such respects as they thought necessary. That could not be done after the reports are perfected and engrossed.

The motion was not agreed to.

EDUCATIONAL INSTITUTIONS, &C.

On motion of Mr. HARDING the Convention resolved itself into the committee of the Whole, (Mr. MCCLURE in the Chair) upon the report of the committee on Educational Institutions and Interests.

The CHAIRMAN stated that the pending question, when the committee last had this subject under consideration, was a motion to strike all out after the word "practicable," down to, and including the word "language," in the third section, and an amendment to that amendment, which was to strike out only the words, "and all instruction in said schools "shall be in the english language."

Mr. LYLE. I have a substitute which I desire to offer, for the whole report. Will it be in order to offer it now?

The CHAIRMAN. It will not be in order until the sense of the Convention is taken upon the pending amendment, or they are laid upon the table.

Mr. HAYDEN. I move to lay the amendment, and the amendments to the amendment upon the table.

Mr. BOLLES. I offered the amendment to the amendment, and it seems to me that

the gentleman who moves to lay it upon the table, does not really understand the matter. It would seem almost unnecessary to go into an argument to show the propriety of adopting my amendment. I hope this Convention will not be guilty of restricting instruction in our common schools, to the English language. We have a large population in this Territory who do not understand English, and who desire the benefit of common schools. Some neighborhoods may think it desirable to have common schools taught in some language other than English, and I should hope that we will regard their interests and wishes, and not restrict our system in such a manner that they will be deprived of the benefits of common schools.

Again, I hope we shall not restrict the application of our school fund, so that it cannot be applied to the support of a graded system of schools, teaching the higher branches. That system of schools has been established in some of our western States, and it has been found very acceptable and beneficial. They prove useful to the community, and many individuals cannot get a competent education to do business without them.

I trust my amendment will be adopted.

Mr. MORGAN. I understand the amendment to be to strike out all after the word "practicable," down to and including the word "language." The amendment to the amendment, is to strike out only the words: "and all instruction in said schools shall be "in the English language."

Now the last amendment is included in the first—the lesser is included in the greater. It seems to me that it would be better if the gentleman would withdraw the amendment to the amendment, until the question is taken upon the first amendment.

Mr. HAYDEN. I moved to lay both amendments upon the table.

The CHAIRMAN. The motion was not seconded, and the question is upon the amendment to the amendment.

Mr. SHELDON. I am in favor of the second amendment, but not in favor of the first. I have some little acquaintance with the system of graded schools as established in the State of Ohio, and I am greatly in favor of that system, so far as circumstances will admit of its adoption. It will be readily perceived, from the very idea of such schools, that they cannot be adopted except where the population is sufficiently dense to afford a large number of scholars. It consists of a classification of schools, embracing a primary school, a grammar school, a high school &c, or such number of schools of different grades as circumstances may demand. It will be seen at a glance, that such a system possesses great advantage in imparting instruction. It has been found, in Ohio, greatly to raise the standard of common school education. It is also economical, from the fact that the scholars are classified according to ages and attainments, and these placed under different teachers, and all superintended by the instruction in the high school department. It has raised up a class of accomplished and efficient teachers, thereby making teaching a desirable profession, sought for rather than shunned. It has dignified the business of teaching.

There seems to be an impression with some that a system of graded schools conflicts with the district system. That is erroneous. The two are consistent with each other. The district system prevails in Ohio, while the large towns, which can support a system of graded schools, do so. I do not see how the district system can be dispensed with in rural districts, where the number of scholars are quite limited.

It seems to me that we are, in this article, going too much into the minutia of legislation. A general provision should be adopted, but we need not mention either the district system or the graded system. Let that matter be left to the Legislature. If anything is to be stricken out here, I should favor striking out what is proposed to be stricken out by the second amendment. In the graded system the classics are taught, and the poorest persons in the land can pass through the different grades and be fitted to enter the higher institutions of learning.

Mr. BALCOMBE. Under ordinary circumstances, I should be opposed to the insertion of this section as reported by the committee. The system is one which I would propose myself, being in favor of the old fashioned district school system—the real democratic system. But, under present circumstances, I am inclined to believe we had bet-

ter make one or two general provisions in the Constitution, and leave the minutia to the first Legislature. I come to that conclusion for the reason that there is not a disposition among a majority of the members of this Convention to remain here and discuss thoroughly this subject and other subjects, which are really matters of great interest to the people at large. There is a disposition to discuss such subjects as capital punishment, women's rights, and matters of that character. This is a subject in which the people feel more interest than in almost any other. It will be talked over in the most distant portions of the Territory, more than any other subject in the Constitution. It will arouse discussion in every little neighborhood, and if we are to adopt any specific system, we should take at least one full week for its consideration. Are we ready to do that? We are not willing to spend time over the most important portions of the Constitution, but we will spend time over subjects in which the people feel very little interest.

Hence I am opposed to the amendments, and when they are voted down, I shall favor the substitute which my friend upon the right (Mr. LYLE) has to offer, which is general in its nature, leaving the minutia of the system to the first Legislature. They will assemble and remain in session ninety days, and have sufficient time to perfect this system.

Mr. BOLLES. If the gentleman from Mower wishes to offer a substitute, I will withdraw my amendment to the amendment.

Mr. BILLINGS. I withdraw the original amendment.

Mr. LYLE. I offer the following substitute for the whole report:

SEC. 1. The principal of all funds, arising from the sale or other disposition of lands or other property, granted or entrusted to the State for educational purposes, shall forever remain inviolate and undiminished; and the income arising therefrom, shall be faithfully applied to the specific objects of the original grants or appropriations.

SEC. 2. The Legislature shall make such provisions, by taxation or otherwise, as, with the income arising from the school trust fund, will secure a thorough and efficient system of common schools throughout the State; but no religious sect or sects shall ever have any exclusive right to or control of, any part of the school funds of this State.

Mr. BATES. I do not know as it is necessary to make any remarks upon the substitute, but I hope it will be adopted for the reason stated by the gentleman from Winona, (Mr. BALCOMBE). We cannot go into the minutia of this matter, and for that reason I am in favor of leaving it with the Legislature.

Mr. HUDSON. So far as I have read the report of the committee, it is very good, but it is very lengthy, and, as has been remarked, there are points which would necessarily have to be discussed at considerable length. Some seem to be in favor of the township, and others, of the district system. I am decidedly in favor of the district system for this new country. I think, however, that the substitute covers all the ground that we should go over in our Constitution.

Mr. WILSON. I am afraid we are going to take the back track without sufficiently looking at the matter. The disposition of this school fund is something we should be very careful about. Look at Wisconsin. What became of the school fund of that State? Squandered, almost all of it. Is it not necessary that we should throw some restrictions around the disposition of these school lands, lest we should be served in the same manner as the people of Wisconsin have been served? The substitute leaves room for making too much money by the Legislature, if there are men base enough to make it in that way. It is notorious that Wisconsin had a larger fund than any State ever before had. We should act cautiously. There are restrictions contained in the report of the committee, which, I think, we should adhere to.

As to the matter of having the classics taught in our common schools, I will say that I am in favor of every boy and girl studying the classics, but not at the public expense. Common schools should be preparatory to a classical education. I am in favor of the report as it stands.

Mr. PERKINS. The substitute might be modified in some respects, but substantially it is right and ought to pass. I think it ought to pass for the very reason urged by the last gentleman who spoke against its passage—that it is a matter of great importance, if we are going to have a large school fund, that it should not be disposed of permanently without a great deal of reflection and deliberation. Now I do not believe that any gentleman of

this Convention has bestowed upon the subject all the thought he ought to bestow upon it, before advising how that permanent disposition shall be made. I do not advocate the adoption of the substitute for the same reason that one gentleman from Winona (Mr. BALCOMBE) did—a disposition upon the part of this body to bestow more attention upon unimportant rather than important matters. I do not think that is the case, but I believe this Convention is satisfied that a subject of this importance requires more reflection, attention, thought and care, than we are able to give to it at this time.

I am in favor of a good, thorough, and efficient system of district schools, of the New England plan, and of district schools generally. So far as I am acquainted with it, that system has worked well, though it might be improved in some respects, I have no doubt. I am opposed to this Convention assuming all the wisdom which will ever be necessary to lay down a plan which shall forever be permanent. It is anticipating the the wisdom of future ages to do it. I am in favor of progress in this matter, as well as in other matters, and for that reason I am opposed to this Convention taking any action of the kind proposed in the report of the committee at the present time—that is, detailing the whole system of common schools, and tying up the hands of the Legislature for all time to come.

Mr. PECKHAM. The gentleman from Winona has told us that this is a very important matter, and one in which the people feel a deep interest. I do not doubt that it is a matter which should receive the grave consideration of this body. The people will require it at our hands. If we can present to the people a system of public instruction which shall be thorough and at the same time of a popular cast, it strikes me that it will do more to procure the adoption of our Constitution, than any other measure we can propose. I hope we shall adopt some system—not a legislative system to be sure, but one within the province of a Constitution—which will be of that popular cast, and shall meet the approbation of the people. It strikes me that the report of the committee can be amended in such a way as to meet the approbation of a majority of the members of this Convention, and commend itself to their good sense and better judgment. We need a system of education which shall be thorough and economical, and for that reason I have been opposed to the district system, and in favor of the graded system and I desire that the way may be left open so that the graded system can be adopted wherever it is practicable. Adopt the district system, and you render it impossible, in any general degree, to adopt the graded system with a primary, secondary, grammer, and high school departments. And even if mixed schools are to be the system of the future, I am opposed to cutting up our townships into smaller portions, called districts. Take a township, for instance, and divide it up into nine districts, giving an equal number of schools to each of those districts, and fix the district lines; and I ask you how long it will be before they will want to change those lines, in order to equalize the schools, as the country settles up? In my opinion there would not be a township in the State, which would not want to change in less than five years. Can you change those lines readily? The districts become, in the eyes of the people, a sort of municipal corporation, and they are generally unwilling that any changes should be made. Besides, there is a practical difficulty arising out of the fact that the school houses are erected at the expense of the districts, and a change might subject individuals to the burthen of taxation for school houses, several times in the course of a few years.

Let the whole matter be in the hands of the town organizations; let them select a competent committee to control the matter, and to see to the selection of teachers, and you have a much more efficient board than would be selected by the different districts, where the principle of rotation in office would naturally exist. Let the town committee draw the district lines from year to year, and let the school houses be built by the town, and the teachers selected by the committee and be sent to those districts for which they are best adopted. I say, then, that if we adopt the system of mixed schools, there is no necessity of a district system. There are evils connected with a district system. If a Convention to revise this Constitution were to meet ten years from this time, it would be im-

possible to abolish that district system, and establish in its place anything like a graded system in the State, because of the feeling of attachment towards the district organizations, which springs up from usage and custom. I hope that neither the substitute nor the report itself will be adopted without some alterations.

Mr. NORTH. I have almost come to the conclusion that the gentleman from Winona will change his opinion in regard to the disposition of this Convention to discuss matters of importance. There seems to be a disposition to discuss even school questions, and perhaps before we get through with it, we shall have as much talk upon it as we had upon the rights of married women, and upon capital punishment.

I am very indifferent as to the adoption of this report, but there is one thing which has not been referred to either in the report, or in the substitute, and to my mind more important than the system itself, which we propose to adopt: and that is the matter of guarding these lands, to prevent their being squandered as they have been in some States. They should be protected from those schemes of rascality by which, in the State of Wisconsin, they have lost many hundred thousand dollars of their school fund. It seems to me that we should throw a safe-guard around them, and then I am willing to leave the details of a school system to the Legislature. It strikes me, that if each county could be made the guardian of the school fund within its own limits, that there would be a division of responsibility. It would place the care of those lands within the supervision of those directly interested in them, and who would watch and guard them from corrupt schemes, better than could possibly be done by having them all go to form a consolidated fund for the whole State. If we should be as unfortunate in regard to State officers, as they have been in Wisconsin, it would be possible for them to pursue the same scheme that was pursued there. But if the fund is divided up, so that each county should have the control of its own land, the State officers would not have much control over it. Then if one man, having the management of a portion of the fund, should prove dishonest, he could not do so much mischief. I think that division of power, is a democratic and safe rule to apply generally, and I would adopt and follow it out scrupulously, in regard to school lands of this State. I think if we can adopt some system of the kind by which we should divide the responsibility, and put the trust in the hands of those most immediately interested, the fund will be guarded more carefully, and more schools be kept, than if the fund were intrusted here at the Capitol, in the hands of one, two or three men.

Mr. BALCOMBE. The substitute brings up the question immediately, whether we are going to fix upon a school system in our Constitution, or whether we will simply provide for a sale of the public school lands, and leave the system of schools to be established by the Legislature. That question I should like to hear discussed and settled before we proceed to frame an article in the Constitution in reference to the matter. If we are not to provide for a particular system, but are simply going to throw restrictions around the Legislature, as to the manner in which they shall dispose of the school lands, then there need be no discussion upon the various systems proposed. If we decide to fix upon a system, we have got ourselves into a week's discussion. I propose to discuss that question myself, if we come to that decision, and I hope gentlemen will make up their minds to discuss it for a week, for it is a matter of very great importance. And I suppose, too, that no two members of the Convention would now agree upon any particular system as a whole. I have not yet heard a single gentleman express my views, and I presume the same is the case with other gentlemen.

Mr. WILSON. I hope members will take this matter into serious consideration. I agree exactly with my friend from Rice county (Mr. NORTH.) I do not care so much about our system of schools—for that can be regulated by the Legislature—as I do about securing the school fund from waste and peculation. I do want the sale of these lands restricted, so that the Legislature, the State officers, or any others, cannot squander the funds. If we make a mistake in that respect we cannot rectify it. If the Legislature makes a mistake as to the system of schools, it can be rectified.

Mr. McKUNE. I hope the substitute will

not prevail. We should throw the disposition of these lands as directly into the hands of the people as we possibly can. The people have suffered so much from legislative acts, that they are afraid to trust those lands to them. They expect that this Convention will lay down in detail, a plan for their disposition, so as to secure them against legislative corruption. They expect this body to throw such restrictions around the Legislature, that it will be impossible for them to squander the school fund. I hope that this committee will rise and report progress, and this Convention will refer this report back to the standing committee, with instructions to report to the Convention a plan by which the counties shall have the disposal of the school lands within their respective limits, and that the people of each district shall have the privilege of fixing their own time for the sale of those lands. I move that the committee rise and report progress. And then in Convention I will make the other motion.

Mr. BALCOMBE. I hope we shall first settle the question whether or not we are to prescribe a system of schools in detail.

Mr. McKUNE. I withdraw the motion for the present.

Mr. GALBRAITH. In regard to the suggestion that the counties should be the guardians of the lands within the respective counties, it strikes me that it is entirely impracticable. Some of the very smallest counties in the State, possessing but a very small amount of school lands, may have the largest population, and be entitled to the largest portion of the school fund. You propose to make a system with a thousand heads, as it were, and every body in that matter is to have the control. What is every body's business, seems to be nobody's business. The money should be put into one fund for the benefit of the whole State, to be divided, not according to counties and districts, but according to the number of children to be educated. All we need in this matter is is to throw such safeguards around the fund as to prevent it from being squandered. A plan which has frequently occurred to my mind, is this, that the money arising from the sale of school lands should be funded, that the servants of the State should have charge of that fund, and that the credit of the State should be pledged for its safe keeping. That will make the school fund as safe as the State itself. The officers of the State, it is true, may cheat the State, but still the faith of the State is pledged to reimburse that fund, and it is preserved for the benefit of the children of the State. It is the most important fund we have, and why should not the State pledge its faith for its safe keeping.

As to the report of the committee, although it embraces a very good school system, yet it may not be the system we want. It is treading on dangerous ground, to go to work now and form an entire system, and if we do not form an entire system, it is more dangerous still to form a part. We want to provide for a proper sale of these lands; we want to place the fund so that it shall be securely kept, and we want to provide that it shall be sacredly applied to the purposes for which it was designed. If we can provide for those three things in the Constitution, it is all we need do.

Mr. BATES. The question is one of deep interest and importance to us all, and so far as inaugurating a complete school system in the Constitution is concerned, I do not think it is practicable to do it. If we decide upon a system, the future wants and conditions of the State may require a change, and that could not be done without a revision of the Constitution.

The gentleman from Winona (Mr. WILSON) says he is opposed to the substitute, because he wishes to guard against fraud, and he referred to the Constitution of Wisconsin. I have been looking at the provisions of the Wisconsin Constitution, which are very elaborate upon this subject, and yet perhaps there is no State in which the school funds have been so squandered. This substitute proposes first, that the principal arising from the sale of school lands shall forever remain inviolate; and second, that the income shall be faithfully applied to the specific objects of the original grants and appropriations. If in addition to that we can add some provision in regard to the manner of the sale of those lands, I have no objection. Two of the points referred to by the gentleman from Scott county, (Mr. GALBRAITH) are provided for in the substitute, and the third can easily be.

Mr. COLBURN. I am myself satisfied that the report of the committee is an able

one, but I agree with many gentleman here, that it is not proper for us to go into the details of an arrangement of a school system in the Constitution. I like the suggestions of my friend from Rice county (Mr. NORTH) in regard to the disposal of these school lands—that the counties should have the management and disposal of the lands within their respective limits. The gentleman from Scott county, (Mr. GALBRAITH) objects to it, on the ground that some of the counties, having a small amount of school lands, have a large population, and to them he thinks that plan would work unfairly. That is the very reason why I desire it. It is well known that in sparsely populated counties it costs several times as much to educate a child as it does in St. Paul and other large places. The children of those counties are scattered over a large tract of Territory, and it costs more to support schools for them. They must either have more money expended for their benefit, or have less time in which to receive their education. There seems to me nothing unfair or unjust in letting each county have the benefit of the lands within its limits. Each county would be interested in the disposal of its lands. I think a law might be passed to meet the objection the gentleman suggested, of leaving this matter to too many heads. There need be no conflict of authority. I believe such a plan has been adopted in some of the States, and it has given general satisfaction. Such was the case in Illinois, though in some portions of the State the thing was badly managed.

I am also of opinion that the substitute might be improved, yet I prefer the substitute to the report itself. It has been said that it was desirable that we should have a decision in the first place, of the question whether we would go into the details of a system. In regard to that, I would say, that I am decidedly opposed to it. It is suggested by some gentleman near me that in Illinois the lands were given to each Congressional district. But I think the principle will work well by giving them to the counties. I am not particular, but I think it is decidedly better than to leave the matter in the manner recommended by the report.

Mr. MORGAN. I am in favor of the substitute and opposed to the report. I am opposed to the report because it looks to the establishment of a system of common schools. It points to a particular system to be established hereafter by the Legislature. There are at this time in this Territory, two systems of common schools—the common school system, and the graded system; the former applying to the farming portion of the country, while the latter prevails in some of the towns under the special acts of the Legislature. In St. Paul, St. Anthony, Minneapolis, and other places, they have the graded system, and have built school houses with reference to it. And it will always be found necessary to have two systems.

In order to provide for placing these lands under the control of the counties, it seems to me, that we have got to go into a little matter of legislation. We shall have to provide the way in which the lands shall be distributed and handed over to the counties, and the mode in which the counties shall dispose of them hereafter. Now I am opposed to going into that kind of legislation, and it seems to me that the substitute is the best thing we can adopt. It is a copy of the provision, on that subject, from the Constitution of Ohio; and I have yet to learn that it did not serve a good purpose in that State. In Wisconsin the difficulty grew out of the manner of disposing of the lands, and we cannot very well guard against fraud of that kind, unless we go into very special legislation. That should be done by the Legislature. It is impossible to shut all these doors against fraud. We can only adopt general provisions and leave minor matters to the Legislature.

Mr. STANNARD. I hope the report will be recommitted. There is a diversity of opinion here, and I hope that the committee will report something like the substitute.

I am opposed to a great many of the ideas which have been advanced here, and one of them is in reference to this county arrangement. That seems to me impossible. The report contemplates other sources of revenue to the school fund, besides what arises from the sale of the lands. I think there should be a revenue raised in addition to the school fund proper, and where is the gentleman that will say but that all the property of the State should be taxed and added to that school fund, if necessary? Why? Here is one

county in which there is a large city, and the school fund is small compared with the number of children, and that portion of the school fund proper, which would go to the rural districts of that county, would be too small to support schools. The provision made by Congress is generous and ample, and I am disposed to make its benefits general.

Mr. NORTH. I offer the following as an additional section:

"The school lands in each county shall be a perpetual fund for the support of common schools in such county, and shall be disposed of in small parcels to the highest bidder, and the proceeds thereof shall be kept, loaned, or invested within the county in such manner as shall be provided by law."

There is no reason why such a provision should not be incorporated into the Constitution. If all the school lands are to be loaned and vested in one fund for the whole State, how is it to be disposed of, and how is it to be invested to bring in an income? Is it to be done in the same manner as in some of the other States? In New York they have loan committees in each county, to loan such monies. They are entrusted with the fund to be loaned upon bond and mortgage from year to year, and they have charge of the proceeds. If that is the plan to be adopted here—and I do not know of a safer one, if there is to be but one fund—it will be scattered abroad in many hands, and if one prove a defaulter, the injury resulting will be less. If that is to be the plan, why would it not be better to let each county, on the start, have its own fund, and avoid the necessity of going through all the machinery of having the funds first sent to the Capital, and thence distributed again all over the State? It is like collecting a missionary fund here to be sent to New York, and they sending back some laborer here upon the very ground where the fund was raised. Is there not more danger of its being lost by that course, than there would be in keeping it in the counties where the lands are originally, and where the funds are to be invested and loaned? It seems to me that that is the most sensible, direct, and practicable mode of proceeding.

There is another reason why I would put in a provision that the lands should be sold in small parcels, and to the highest bidder. It is that the man of moderate means may give the full value of the lands. If by the management of public officers, they were permitted to be offered in large quantities, men of small means would not be able to buy, and men of large means would get them at much below their actual value. By selling them in small parcels, they will produce the largest possible fund.

Another reason is, that throughout this Territory there is a prevailing disposition to make claims upon these school lands, in hopes that by some management the occupants of such lands will be privileged above others, and thereby be able to get their lands at one tenth their value. I would put a check upon that thing, and stop it now, for if it is allowed to proceed, the school fund of this Territory, as a whole, will not be one-tenth of what it should be. I would make the provision now, that the public may understand the arrangement, and avoid putting themselves to great inconvenience in the hope of making a large haul out of the school lands.

Mr. GERRISH. I am opposed to that additional section, because there are large counties in the pine country, which would have a large school fund, and no need for it. Such a distribution would be extremely unequal. I think it would be better to divide it throughout the Territory, and then all the inhabitants would receive the benefits of it in proportion to numbers.

Mr. NORTH. I would suggest that if there are no inhabitants, those counties would need no schools.

Mr. GERRISH. But where would the money go to?

Mr. LOWE. I thought this Convention had come to the conclusion that they would put no questionable provision into the Constitution. I do not know but the proposition of the gentleman from Rice county is a proper one, but it is one upon which I feel entirely incompetent to form an opinion. It is, at any rate, a questionable proposition, and if it be inserted in the Constitution, whether it be right or wrong, it will inaugurate a new policy, which, from the nature of the case, will be severely censured and questioned. For that reason, I hope, if the report is recommitted to the committe for re-consideration, it will go without the endorsement of this Convention. The proposition is one which, were I sitting

as a legislator, I would consider favorably, but I dislike to be compelled to make up my mind upon the question, as a member of a Constitutional Convention. The idea of putting such a provision into the Constitution, seems to me erroneous, whether, in itself, right or wrong.

Mr. KEMP. If I understand the proposition of the gentleman from Rice, it is that each county shall take its own school land and fund, and hold it upon its own account, without its being at all connected with the general fund of the Territory. I think that would be unjust, and as an example, I refer to my own county—Wabashaw. That county is mostly situated upon the Half-Breed tract, and they have no school lands at all. There was no reserve of lands for school purposes in that tract. Of course she would suffer from the proposed course, and we should have no school fund at all. To obviate that difficulty, and prevent that injustice, the fund should be a general one, and distributed according to population. There are other counties which would suffer in a similar manner. Some counties thickly settled, have a small school fund, while others have a sparse population and a large school fund.

Mr. HAYDEN. I am rather of opinion that by this time my friend from Winona (Mr. BALCOMBE) will conclude he was not exactly a prophet, when he said the Convention were not willing to debate this question, and that no interest was felt here upon the subject, for I see there is quite an interest, and no end to debate.

For myself, I am in favor of the substitute rather than the report, and although I believe that report is a good one, yet I suppose the committee will not consider it discourteous if we prefer something else. The substitute has been referred to as being very concise, and as avoiding legislation, and that is one of the reasons why I prefer it. I think the first section of the substitute does about as much to guard against fraud in the sale of the school lands, as can be done by us.

Much has been said in regard to different school systems. I am ready to say, as an individual, that I prefer the district system. My friend upon my right (Mr. PECKHAM) has spoken in favor of graded schools. I am aware that in certain localities they may be the best, but I assure that gentleman that from my experience in this matter, I know they will not work well in the rural portions of the country. Small scholars cannot attend such schools without great inconvenience. Hence it is important that the matter should be so left, that the rural districts may have district schools. The system of district schools was practically established in the State from which I came, and I am of opinion that the New England States had as good a system as any. I am sure that as many teachers have been sent forth from the New England States, as from any portion of the union. I am hence opposed to going on here, and incorporating any system at length, into the Constitution.

My friend from Winona (Mr. WILSON) has remarked that there was danger of corruption in future legislation. I think that a short time since, he stated in an argument, that this body appeared to believe that we were the only honest and honorable body that would ever assemble in the Capitol. But to-day, his argument has appeared very differently. I think this substitute is all that is needed in the Constitution, and for one, I am willing to leave the rest to the Legislature.

As to the section proposed by the gentleman from Rice County, I am in favor of it, and I do not know but I would be willing to go a little further. I am in favor of it for this reason: in my native State, the fund was left, not to the counties, but to the towns, and if I understand the subject, that course might be adopted here. It worked well there. But whether we go as far as that or not, I am satisfied that it is better to give the counties the control of the fund, rather than the State. But some object that large and populous places would not get their share. It is usually the case that such places have their peculiar facilities and advantages, over the rural districts, in educating their children which the rural districts have not. Hence I think the thing is about equal.

Again the gentleman across the way (Mr. KEMP) told us that his county was situated upon the half-breed tract, and consequently that there were no school lands there. I think that if they are within the proposed boundaries of the State, there are school lands there. The Enabling Act was as follows:

"Sections numbered sixteen and thirty-six in every township of public land in said State, and when either of said sections or any part thereof has been sold, or otherwise been disposed of, other lands equivalent and contiguous as may be, shall be granted to said State for the use of schools."

I am of opinion that under that section, two sections of every township in that county must be school lands.

Mr. PECKHAM. I was misunderstood by the gentleman who has just taken his seat. In the remarks I made in regard to the district and the graded system of schools. I did not wish to be understood as being in favor of adopting the graded system throughout the entire state, but that the district system was not necessary in order to the adoption of mixed schools; that where mixed schools were adopted, we might just as well abolish the district system as to retain it, and that we cannot maintain the graded system where the district system exists. I wished the district system rejected in order that the people might, if they desired it, and if their population and number of children would admit of it, establish the graded system. I did not advocate the universal adoption of the graded system, though I think the graded system might be adopted to a greater extent, than gentlemen seem to suppose. In every township there might be established a central high school, and several primary and grammer schools, scattered around as the wants of the people demanded. But if the population is so sparse that such a system cannot be adopted, the people are authorized to maintain a system of mixed schools, although the district system be not in existence.

Mr. WILSON. I am opposed to this county system, for the reasons given by two of my colleagues. One stated that in Wabashaw County, there were no school lands. That is true, also, in respect to a great portion of Winona County, and that is a reason why it will not answer for that county. My friend from Winona (Mr. GERRISH) asks what we would do in reference to the pine regions. There are school sections there much more valuable than those in the populated counties, and yet no necessity for schools. They have a school fund much greater than that of counties where they need a large fund.

Again take Winona County. She may have a school section upon a bluff, which is not worth ten cents an acre. The same may be true of other counties lying along the river. Those counties have a much larger population than any six counties lying back of them, where the school sections are more valuable. Now to adopt the county system would not be fair. The school fund should be distributed in proportion to the children who receive the benefits of the fund. I am therefore entirely opposed to the county system. I am in favor of the other proposition of the gentleman from Rice County, that the lands should be disposed of in small quantities.

Mr. FOLSOM. I am in favor of all proper safeguards being placed in the Constitution in order that the proceeds of these lands shall be forever inviolable, but I am not in favor of burdening our people with the details of a school system which is contained in this bill, because we are a progressive people, and any system which may be adopted now, will not be applicable to our circumstances five years hence. I am not in favor of any system which ties up the hands of the Legislature.

In reply to some remarks made by gentlemen in regard to the valueless portion of the Territory, I will say that they labor under a wrong impression; and I say now, for the benefit of the Convention, that there is not any portion of that Territory which will ever be organized under a county government but what will sustain a dense population, and they can manage their own school lands.

Mr. WILSON. I did not say it was valueless. I did say, that in some of those counties, when populated, the school lands would be much more valuable, because they are good lands, and hence the system would operate unequally.

Mr. BALCOMBE. The question now before us is the amendment to the amendment, and in that amendment two questions are involved; one is whether the lands shall be under the control of each county by itself, or whether they shall be under the control of the State as a whole. That question has been somewhat discussed, and I hope every member will express his opinion upon the matter, because I wish to have the opinion of the people upon that point, and then be governed by it. The second question is whether the lands, when sold shall be appraised, or

whether when sold, they shall be sold to the highest bidder. That question has not been spoken of by any gentleman. I would like to hear the opinion of every gentleman, because I wish to get at the wishes of the people upon that point, and then be governed by it. My idea is that the lands should be appraised, and then put up at public auction, and sold to the highest bidder. If the lands are put under the control of each county, and are put up at public sale, there are two or three things to be considered. In the first place speculators would not desire to buy lands out from under the settlers, by bidding higher than the settlers, and the settler buys at the minimum price of $1,25 per acre—that is settlers who were actually on the school sections. Though the speculators may desire to bid even fifteen or twenty dollars an acre, he does not desire to bid it out from under the actual settler. A neighbor for instance who might want the land actually for farming purposes, would not bid against his neighbor, the actual settler upon it. Suppose my friend from Scott county (Mr. GALBRAITH) was an actual settler upon a school section, I would not, however much I wanted the land, take it away from him because I was able to pay a higher price than he. Now this is a matter which we should take into consideration.

I approve of putting some restriction upon the Legislature, and the question is, what restriction shall we impose as to the disposal of the school lands.

It seems conceded that we shall not incorporate here a general school system, and the question then is, what kind of restrictions shall we place upon the Legislature. That is an important question, and I want to know what are the wishes of the people upon that point.

Mr. STANNARD. The question is upon the proposition of the gentleman from Rice county, to give the school lands to the several county corporations for the use of schools. I am opposed to it, and not, I think, without some reasons. To illustrate the real effect which this amendment would have, let us suppose that we make smaller subdivisions, and give the lands to the towns. In one town say the school section is worth $100 per acre. That would be a great fund for that town. In another town adjoining, it may so happen that the school section is worth but the government price—$1.25 per acre. Now those towns may be just as populous, and every one admits that education is not a local, but a general benefit. It is for the benefit of our county that the children of another county should be educated. Now I submit if that would be just? One county might have a revenue of $50,000, while another would have only a small revenue of $2,000. I ask if that is just and equitable, and if it is carrying out the objects which the people of such a State as ours, ought to have at heart? I say there is no more need of instruction in large cities than there is in the rural districts. And you will generally find the children of the rural districts better educated than those of towns and cities.

Mr. BOLLES. I am disposed to treat this subject with a great deal of caution. I consider the proposition of the gentleman from Rice county correct in part, and in part not. The proposition which he proposes to insert into the Constitution, that the lands shall be sold in small parcels, is a good one, for the reason that if so sold, they will bring the highest price, and put more money in the school fund, than if sold in larger parcels. There are school lands which are valuable, and I believe that if they are sold in twenty acre lots they will bring a larger revenue to the school fund than if sold in any other way. If we adopt the minimum price, it will operate unfavorably. I take it to be the true principle that the settler has no business to occupy these school lands to the injury of the children of the State, and if he goes on to them, he does so at his peril, and if he makes improvements, he should understand that his land must come into competition by the bids of others.

One objection I have to the proposition is, that it will not distribute the benefits of a school fund equally. I think the only just ground is to give the State the benefits of the school fund equally. As far as my county of Rice is concerned, we should get a large school fund, because our school lands are valuable, but I am not disposed to hoard them up for our exclusive benefit, and I believe our people will be with me in that respect.

Unless we intend to go into the details of a system from beginning to end, from the State

superintendent down to the town superintendent, we cannot do anything more than to adopt the substitute proper. I hope the last amendment will not prevail. There seems to be a difficulty in getting at it. It will bring us into that difficulty we are all talking about —special legislation.

Where there is a diversity of opinion, the gentleman from Winona will find that we are as ready to talk upon a matter of importance, as we are upon such questions as women's rights, and I hope we shall have no more reference to that matter, because what may seem of importance to one, may not seem of importance to another. I hope we shall have no more remarks reproaching any one for what they may say here. I have a good opinion of my fellow beings, and I am inclined to believe them honest in their sentiments, until they prove themselves dishonest. I do not want to charge them with anything like double dealing, or anything of that kind.

I say again, I hope the proposition will not prevail. It strikes me that it is not proper, unless we intend to adopt a general and minute system.

Mr. COLBURN. It appears to me that the amendment of the gentleman from Rice county ought to be divided. I want to vote for that part of it which provides that the school lands shall be sold at public sale, and against that part which provides for placing them under the control of the counties in which they are situated. On the other hand there are those who wish the lands to be placed under the control of the counties, but are opposed to the first provision.

Mr. HARDING. I offer the following as a substitute for the amendment of the gentleman from Rice county:

"No school lands shall be sold until they shall have been appraised by three appraisers, who shall be appointed by the board of supervisors of the several counties in which such lands are situated, and not for less than the appraised value."

Mr. COGGSWELL. I have listened with considerable interest to the different speakers who have spoken upon these various amendments. There have been some very good suggestions thrown out by several gentlemen —suggestions which, in my opinion, would be very proper, provided we were a Legislature, and were sitting here to pass a code of laws in regard to schools. Now I am one of those who always want to know just where we stand in the first place, and after having found out the position we occupy, to take such a direction as our judgments may dictate. I understand, in the first place, that Congress has granted us a certain amount of lands for school purposes, and that the grant is substantially like the railroad grants. It has not, however, granted those lands to the different counties, nor to the different townships, but to the proposed State whenever we come into the Union as one of the States.

Now I have no objection to the amendment proposed by the gentleman from Rice county, which provides for the disposal of these lands to the several counties. If we are sitting here as a Convention for the purpose of disposing of those lands in the same way that the Legislature disposes of the railroad grants, I want to understand what is the best and the proper disposition of them. It so happens that I was born in New Hampshire, and raised under the New England common school system, and I know something about that system. Some of their arrangements I liked and some I disliked. I was transported to Illinois, and I learned something about the system which prevailed there. In that State every sixteenth section was given for school purposes, and the Legislature gave those sixteenth sections, not to the counties, but to each congressional district. Now in coming from Illinois up into Minnesota, it seems to me that it is my duty to discriminate between the circumstances of Illinois and Minnesota. I ought not to lug around all my New England notions through Illinois, and perhaps amend them in Illinois, and then lug them up the Mississippi into Minnesota, and say they are right, and should be carried into operation here. I see here a different country from the Northern part of Illinois. I see the pine and the lumber country up here, which can never be thickly settled. Northern Illinois is settled by a farming community, and a system that would not operate well there, would operate well here. We should look to the circumstances which surround us, and be guided, to a certain extent, by those circumstances, and as far as my judgment is concerned, it seems to me that this county or township system, which works well in Illinois,

where nearly all the lands are farming lands, would not work well here. It seems to me, also, that inasmuch as this grant has been made to the State, it ought to he kept as a State school fund, to be applied by the Legislature in such manner as the wisdom of the Legislature may direct. Now I do not believe that we are going to have, hereafter, such great swindlers to represent us. I do not believe but that the Legislature will have just as much knowledge in reference to the school lands as we have; nor do I believe but what we shall have as smart, talented, and as wise men in the Legislature as we have here. So far as I am concerned, I am perfectly willing to run the risk. Now perhaps you and I may be so fortunate as to come into one of those Legislatures, and if we do, then, you know, everything is perfectly safe. (Laughter.)

Now the question has been asked, and properly asked, by my friend from Winona, (Mr. BALCOMBE) are we to go on and devise and perfect a school system. I, for one, would like to have that question answered. (Cries of "No!" "No!") That is my idea exactly. And then if we are not going on to engraft a regular school system into the Constitution, the next question is, where is the propriety of engrafting certain restrictions in regard to the sale of school lands? In my judgment, when you come to the details of that system of restriction, in regard to the sale of the school lands, it will amount to about the same thing as a system of common school legislation. The ideas already advanced are, that the lands shall be appraised at their actual value by certain individuals; that they shall be sold in small quantities, and not for less than the appraised value. Now if you are going that far, I propose that you shall protect the people of our section of the country who have settled upon the school lands as honest and good citizens, though, perhaps, under a mistaken idea of their rights. But they are there, and a part and parcel of our best citizens. They are there helping us build our school houses, to pay our taxes, and to build up the country, and if you are going into restrictions, I have something to say in regard to that class of individuals.

My opinion is, that we should leave it where the Enabling Act has left it; and for that reason I am opposed to the report of the committee; and furthermore, I am opposed to every amendment which has been offered, and shall be opposed to every amendment which may be offered. Now that is going a great ways. But the Enabling Act, by its fifth section, has given the land to the State, and we have accepted of the provisions of that act. Now, how does that make the matter stand? Do not the lands belong to the State? Yes. For what purpose? For the support and benefit of Schools. Can you appropriate the proceeds of these lands to any other purpose than the support of Schools? Certainly not. It is perfectly safe then, and the whole matter rests with the Legislature; and it is for their wisdom to devise a system of Schools; to say how the fund shall be applied, and in what way and manner. It is perfectly safe as a School fund—made so by the Enabling Act, and by that clause of the Constitution which we have substantially adopted, which does accept the provisions of that fith section. Then, if the fund is safe, what necessity is there for going on to make restrictions in regard to the sale of the lands? Let the Legislature dispose of that, as well as of all other matters connected with this subject. My opinion is, that the members of the Legislature will come here with just as much regard for the good of the country as we have.

Mr. NORTH. Before the question is taken on the substitute for my amendment, I wish to say that I think there is a little misapprehension in regard to the working of the system I propose. I should not feel disposed to urge that very strongly, if I did not know that there were strong feelings in favor of such an arrangement among some of the most enlightened people in this Territory. Some who have had the misfortune to live under the Wisconsin system, have seen the danger arising from a consolidated fund. We wish, above all things, to have our School fund guarded; and the people would rather prefer a smaller sum than they otherwise would have, and have it secured and under their own control, than to have a larger sum, and feel that it was not secure.

A word in regard to the working of this system in counties where there are no settlements. Let the lands remain unsold until

there are settlements. If there are no scholars to have the benefits of them, let them lie until they are more valuable and there are settlements which need them.

Again, it is said that the lands will be of small value in some counties, and in others it will be the contrary. I believe these lands are generally valuable in proportion to the population of the counties; and as population increases the lands become more valuable. That is the reason why the lands are very valuable in some localities and very cheap in others; and the value seems to be graded almost in exact ratio with the increase of population. True, I know that lands have value according to quality. If they lay upon bluffs, they are almost valueless; but the inequality which that would work is not greater than under any other system. Suppose all those lands are sold and the proceeds put into a consolidated fund. It seems to me that valuable lands will be sold in some localities before they will bring their true value, for want of improvements around them. They might not bring a tenth or twentieth part of what they would if they were allowed to remain until the country became settled around them. If the matter is left to the counties, they would take their own time to dispose of them, and will make the most out of them: I believe it is the feeling among the people, that they would rather have a small sum and have it secure and under their own control, with as little machinery about it as possible, and as little sending to and fro from the Capital to their respective localities, than to have a large fund at the Capital in which they had a share, but over which they had no control. The additional security gained by having the counties have the entire control, is a reason which ought to outweigh a great many reasons against it.

Mr. GALBRAITH. The amendment of the gentleman from Rice county, is to me, at least, a matter of doubtful propriety. From the great diversity of views expressed here, I am satisfied that our minds are not settled upon the matter. Objections have been urged here, which, I think, are very strong. The objection, also, is made here, that some counties, which may have more population than richer counties, have a smaller School fund, because their lands are not valuable. I am surprised that gentlemen should urge such an objection, contradicting the old adage, "Poor "men for children." Now it is a matter of fact that in the old States, some of the poorest and worst counties are filled up with population, and why? Because poor men go there, while the capitalists go into the richer counties. And here at the West, rich lands are made the subjects of investment by the rich capitalists. Poor men after the first settlement of a country—after the lands pass through first hands—cannot settle in the rich and wealthy counties, and their lands are not the homes of poor men. The man who wants a home merely, goes where his labor or his funds will pay for it the easiest, and that is in the poorest counties. It is a matter of history, which cannot be denied, that poor men have more children than rich men have. It is the history of the world. Take Ireland as an instance. Those who live in hovels will every one of them have their dozen, and those are the ones who need education. They are the poor men who need facilities for education, because it is a fact, that men, when they become rich, do not send their children to the common schools, and, as a general thing, you will find none of the rich men, except such as have liberal minds, in favor of common schools, because they say they can do better.

The land which has been given by Congress for the benefit of the schools of the future State of Minnesota, is an inheritance for every child in the Territory, and the nearer equal we make the distribution of that fund to every child, the nearer we come to fulfilling the conditions on which we received the grant. Let us be cautious in distributing this fund around among the counties. What security do they give? Into whose hands in the county shall those funds be entrusted? You say the Legislature will provide for that. Then the Legislature must provide for this county and that county to the number of sixty all over the Territory, according to their various circumstances. Do you place it within the hands of county Commissioners? Are they bound to give security? Will not that make a complicated system composed of five hundred different heads? Is that a good plan? Is that the way monied men do? Capitalists generally wish to have their funds invested in good, sound, paying stocks, and to have them as

near together as possible, on the principle that an army scattered here and there cannot fight a good battle. Will it be easier to secure those funds, when scattered through every county in the State, than it would be were they all in one place? We have a large number of county organizations, and each one of them must give some kind of security, and the State has got to attend to that matter. We have no provision here saying what kind of security shall be taken, and I do not know as we could put such a provision into the Constitution.

I cannot say that I have made up my mind upon this subject, but I can say that it is not clear to my mind that the proposed plan is the best. We are dealing with the grant of school lands, and it is a new thing to us. In many States the leeches of the State have robbed the children of their inheritance. To provide against the recurrence of such an event, is now the duty of this Counstitutional Convention, and if we can throw a safe guard around that fund we will do an act for which posterity will cast blessings upon our heads. Is it not, then, well worthy the serious consideration of every man here? As there is such a variety of opinions, to adopt any one of these provisions as a finality, is a little dangerous. It will bear further inquiry and I am in favor of re-committing this whole proposition to the committee from which it came, to report, now that they have had the views of this body, just how the lands shall be disposed of, whether in small or large quantities, and how the fund shall be secured and how it shall be distributed. We should throw around the Legislature a constitutional guard beyond which they cannot go. If this Convention can accomplish that object, they will do a good thing, and whether the Constitution is adopted or not, it will, at least, show their good intentions. I do not intend to offer an amendment now, as I am not prepared for it, but I wish to suggest the idea that the Legislature shall have the power to appoint or name the Commissioners of the school fund, who shall have power to sell or otherwise dispose of the school lands and invest the money arising therefrom in the same manner that the law prescribes that money belonging to orphan children shall be invested—that is in United States stocks, and solvent State stocks, or in bonds and mortgages upon undoubted real estate security. In addition to that, I would provide that after the Commissioners had agreed upon the securities, they should not be finally taken and made valid and binding without the approval of either the Secretary of State, Superintendent of common schools, the Governor, or some other proper officer. I also would have the faith of the State pledged for all depreciation in the school fund, from fraud or mismanagement—that the State shall be collateral security, if you please, for that fund, in order that this inheritance given to us by Congress, shall forever remain inviolate to every child born in the Territory as long as the world stands. This fund should be secured inviolable, though every other fund should sink into the ocean.

Be it understood that I do not urge this in any other way than as a suggestion. If the fund is not well guarded every leech in the Territory will be after it. I know it to be a fact that men are colonizing the school lands now. They are sending out pre-emptors upon the school lands, and are cutting off the timber upon them. Their object is to come into the Legislature hereafter, and demand that they shall give them those lands at a certain price, upon the ground that they are settlers upon them. And it is not the settler either who does this. It is the speculator. He knows that these school lands are valuable. In the county in which I live the school sections are very valuable. It seems as though Providence had given us the best sections in the county, and every day we get the news that some stranger has gone upon the school lands, and is erecting a cabin. And what for? You can trace his steps from some speculating office in this Territory directly to that school land. The Constitution should hedge these lands about, as one of the most important interests to be taken care of. How to do that is what I want to get at, and I have not arrived at a satisfactory conclusion in my own mind. If we can, let us accomplish it by all means, and never permit the Legislature to allow those men who have gone on the school lands after the surveys, one iota of profit from such acts. Men who will voluntarily step upon the inheritance of the State and rob the children of the State of their inheritance, deserve no commiseration, and

should have no benefit from their wrong deeds.

Mr. MESSER. There is one reason why I should be in favor of the amendment, and that is, because I believe that where the avails of the land are to be used, there is the place where the people feel the deepest interest to guard them. I believe, too, that the counties should have the control of them, because they will then have a direct and deep interest in protecting them, and disposing of them to the best advantage. I like, also, the suggestion made by the gentleman from Rice county, in his amendment, that these lands should be sold in small parcels. I could wish that those lands might lie for years, for I believe that the lands themselves are the best possible security we can have. They ought not to be sold, only as they are needed to carry forward the schools in the counties in which the land lies. I know that the lands are now looked upon as very valuable in many sections, and school sections touching upon towns and cities are considered immensely valuable; and there are many who are looking forward to the time when they can purchase those lands, and are willing to pay a good price for them. But the people in my section of the Territory prefer that the lands should remain unsold for the present, for they prefer the land, to having its value placed in any other shape.

Mr. BALCOMBE. As I understand it, the question is upon the substitute of the gentleman from Olmsted county, (Mr. HARDING) which provides for the sale of the lands after appraisal, instead of selling at public auction. I believe I am in favor of that principle. I believe the fund would be larger derived from a sale in that way, than it would be, if the lands were sold at public auction to the highest bidder. I believe that if they were sold at public auction, that they would very seldom bring more than the minimum price. Those school sections will be covered by actual settlers, and as to the question whether or not they will fall into the hands of speculators, that has nothing to do with the discussion of the question under consideration, though I do not believe that any man supposes that the actual settlers now upon the school sections intend to give them into the hands of speculators. They design to impression that they are intending to occupy them as homesteads will prevent all others from bidding upon those lands. Hence I am satisfied that we shall get for them, upon public sale, no more than the minimum price. Therefore I hope the Convention will decide upon a system by which the lands must be sold under appraisal. As to who shall appraise them, I may differ with gentlemen. I am of opinion that some responsible persons should be appointed by the State to appraise them—men who will not be directly interested, as men would be if appointed in each county. My idea is that the appraisers should be individuals as far out of motives of interest as possible. The supervisors of the county would be more or less interested in them. The commissioners who might be appointed by the supervisors, would be directly within the reach of those individuals in the counties who are living on the school sections, and might be more likely to give a low appraisal than individuals who were appointed under State authority.

The question was then taken on the substitute offered by Mr. HARDING, and it was not agreed to.

Mr. BALCOMBE. I move that the committee now rise, in order that this report may be re-submitted to the committee from whence it came.

The motion was agreed to.

The committee accordingly rose and reported back the report to the House.

Mr. BATES. I now move that the report be re-submitted to the committee without instructions.

Mr. ALDRICH. I hope the motion of the gentleman from Hennepin (Mr. BATES) will not prevail. We might just as well dispose of this matter now, as at any other time. At least, let us try, and if gentlemen are in favor of the substitute offered by the gentleman from Mower county, (Mr. LYLE) let us adopt it. If we are in favor of the report of the committee as it now stands, let us adopt that. If we see fit, after trying that, to re-commit the report to the same committee, then it can be done. We have had no votes yet which amount to anything, as to obtaining the sense of this Convention. It seems to me useless to attempt to re-commit it until we have first ascertained the sense of the Convention.

Mr. GALBRAITH. That is a test question as to whether we are prepared to vote upon it now.

Mr. BATES. I made the motion—not because I am prepared to vote, but simply out of courtesy to the committee. But if it is the wish of the Convention, I will withdraw my motion.

Mr. NORTH. I believe the Convention ought, at least, to finish one report each day.

Mr. WILSON. I move to re-commit the report to the committee.

Mr. COGGSWELL. I move that the Convention adjourn until half past two o'clock.

The PRESIDENT. The motion to adjourn to a specified time will not take precedence of the motion of the gentleman from Winona, (Mr. WILSON.)

Mr. COGGSWELL. Then I withdraw it.

The Convention refused to re-commit.

Mr. HARDING moved (at twelve o'clock and five minutes) that the Convention adjourn until half past two o'clock.

The Convention refused to adjourn.

Mr. HAYDEN. I move that the substitute for the report be adopted.

The PRESIDENT. There is no substitute before the Convention.

Mr. LYLE. I move a substitute for the report, the same that I offered when in committee.

Mr. NORTH. I move to amend that substitute by adding the additional section which I offered in committee.

Mr. WILSON. I wish to say a few words upon this question. I think the gentleman from Rice county cannot have thought of the effect which his amendment will have upon some of the counties of this State. There are certain counties which will be left without any school fund—Wabashaw, for instance, being mostly upon the half-breed tract, in which there are no school sections reserved.

Mr. NORTH. They have an equivalent in other lands.

Mr. WILSON. They have an equivalent when all the best lands shall have been chosen out, which is no equivalent at all.

Mr. NORTH. The section does not say equivalent in acres.

Mr. WILSON. I do not think it means equivalent in value.

Mr. NORTH. The section does not say equivalent in acres. I take it that "equivalent" means equivalent in value.

Mr. WILSON. The language of the enabling Act is this:—

"That sections numbered sixteen and thirty-six in every township of public lands in said State, and where either of said sections, or any part thereof, has been sold or otherwise been disposed of, other lands, equivalent thereto and as contiguous as may be, shall be granted to said State for the use of schools."

I think that means equivalent in acres. I think so. My friend differs from me, and he probably is correct. Now when we look at the most populous counties in the Territory, and see that they will probably have their school sections upon a bluff which is not worth twenty-five cents an acre, and when we see that the cities of those counties are the very localities which most need the benefits of the shool fund—for the children of the cities are for the most part poor children—and when we see the great inequality that system will work, we ought to pause before we vote for such a proposition. In the State of Illinois, which is a prairie State all through, it might be the case that the more populous the county the more valuable the land. But that is not the case here. I find that the school sections in the most populous counties, are the least valuable. Now are you going to cut off the populous counties from the benefit of the school fund; are you going to have the county of Wabashaw to seek for her number of acres after the best lands of the State are taken up? Are you going to leave the other counties to their school lands upon the bluffs, when they have a population four or five times that of counties which have fertile school lands? I say that is unjust, and I say that any Constitution containing such a provision will not receive the sanction of the people of Minnesota. I do not say that I will vote against it, but I do say that I will not vote for it.

Mr. ALDRICH. Under the Enabling Act the question arises whether this Convention has the right, or whether the Legislature of the State of Minnesota has the right, to divert the school lands, or the fund arising therefrom in the manner proposed by the gentleman from Rice county. These lands are granted to the State for the use of schools in

the State. They are not granted to the counties for the use of schools in those counties.

I am decidedly opposed to the amendment proposed by the gentleman from Rice county, and at the same time I am in favor of throwing all the restrictions and safeguards around that fund that I possibly can.

Mr. NORTH. They were granted to this State in the same sense, we may say, that the Railroad lands were granted to the State, for the purpose of building Railroads in particular localities. These lands are for the benefit of schools in particular localities—not only in all the counties in this State, but in all the precincts and school districts of the State. I see nothing inconsistent in my amendment with the provisions of the Enabling Act.

Mr. McCLURE called for the yeas and nays on the amendment offered by Mr. NORTH.

The yeas and nays were ordered, and the question being put, it was decided in the negative, yeas five, and nays thirty-nine, as follows:

Yeas—Messrs. Ayer, Hayden, McKune, Messer, and North.—5.

Nays—Messrs. Aldrich, Anderson, Balcombe, Baldwin, Bates, Billings, Belles, Butler, Cleghorn, Colburn, Coggswell, Coe, Duley, Eschlie, Folsom, Galbraith, Gerrish, Hall, Harding Hudson, Hanson, Holley, Kemp, Lyle, Lowe, Manor, McClure, Morgan, Mills, Murphy, Putnam, Peckham, Stannard, Secombe, Smith, Vaughn, Watson, Wilson, and Sheldon.—39.

The question recurred on the substitute proposed by Mr. LYLE.

Mr. WILSON. I am opposed to the substitute. I want to make an amendment to it, but wish time to consider the same, and therefore move that the report be laid on the table. We can take it up at any time.

The motion was not agreed to.

Mr. FOLSOM. I move to amend the substitute by striking out the word "exclusive."

Mr. ROBBINS. I feel that the subject now before the Convention is second in importance to none which can occupy the attention of this Convention. It is also a question of vital interest to our constituents, and it goes home to their pockets. A question of ordinary importance may be passed over, and not arouse the attention of the community, but a question of this kind comes home to their hearts and feelings at once. They have a great interest in it. There is a quarter section of school land near my residence, which is worth $50,000. Now I do not want to vote upon the question until I have had time to think of it. I wish to know the provisions of the bill all through, and I wish to act consistently upon it. For that reason I move that the Convention now adjourn.

The motion was not agreed to.

Mr. GALBRAITH moved that there be a call of the Convention.

A call was ordered, and the roll being called the following named members failed to answer to their names:

Messrs. Bartholomew, Coombs, Davis, Dickerson, Foster, King, McCann, Phelps, Perkins, Russel, Thompson, Walker, Winel, and Watson.

Mr. MORGAN moved that all further proceedings under the call be dispensed with.

The motion was not agreed to.

Mr. WILSON moved that the Convention adjourn until half past two o'clock.

Mr. STANNABD. That motion is out of order.

The PRESIDENT. A motion to adjourn to a specified time, under a call of the House is not in order.

Mr. HAYDEN. I move to reconsider the vote by which the Convention refused to suspend further proceedings under the call.

Mr. GALBRAITH. I believe that a majority of the members who have spoken, have expressed themselves in favor of this amendment, and I want a vote upon it, but I do not want that vote a finality. There are plenty of amendments in the minds of members. If the friends of this measure will allow it to be amended hereafter, and not rush it through to a finality to-day, I am willing to vote for a suspension of all further proceedings under the call.

Mr. STANNARD. I rise to a question of order. Debate is not in order. When the Convention is under a call, nothing is in order, but a motion to adjourn, a motion to suspend further proceedings, or a motion to reconsider the vote refusing to suspend the proceeding under the call.

The PRESIDENT. The question of order is well taken. No motion is in order but a motion to reconsider.

Mr. KEMP. I make that motion.

Mr. STANNARD. Did the gentleman vote with the majority?

Mr. KEMP. I did.

The question was taken, and the motion to reconsider prevailed; and then all further proceedings under call were dispensed with.

Mr. ALDRICH moved that the Convention adjourn until half-past two o'clock.

Mr. SECOMBE. I move the previous question. I believe that takes precedence of a motion to adjourn to a particular time.

Mr. GALBRAITH. I move that the Convention adjourn, and upon that I demand the yeas and nays.

The yeas and nays were ordered, and the question being put it was decided in the negative, yeas 13, nays 31, as follows:

Yeas—Messrs. Baldwin, Coe, Eschlie, Galbraith, Hall, Lyle, McKune, Morgan, Murphy, Stannard, Kemp, Smith, and Wilson.—13.

Nays—Messrs. Aldrich, Anderson, Ayer, Balcombe, Bates, Billings, Bolles, Butler, Cleghorn, Colburn, Coggswell, Duley, Folsom, Gerrish, Hayden, Harding, Hudson, Hanson, Holley, Lowe, Mantor, McClure, Messer, Mills, North, Putnam, Peckham, Secombe, Vaughn, Watson, and Sheldon.—31.

Mr. STANNARD. I move to lay the report and the motion for the previous question upon the table.

The motion was agreed to.

Mr. MANTOR moved that the Convention adjourn.

Mr. COLBURN demanded the yeas and nays.

The yeas and nays were ordered, and the question being taken it was decided in the negative, yeas 9, nays 35, as follows:

Yeas—Messrs. Baldwin, Eschlie, Galbraith, Hall, Kemp, Lowe, Morgan, Secombe, and Smith.—9.

Nays—Messrs. Aldrich, Anderson, Ayer, Bates, Billings, Bolles, Butler, Cleghorn, Colburn, Coggswell, Coe, Duley, Folsom, Gerrish, Hayden, Harding, Hudson, Hanson, Holley, Lyle, Mantor, McKune, McClure, Messer, Mills, Murphy, North, Putnam, Peckham, Stannard, Vaughn, Watson, Balcombe, Wilson, and Sheldon.—35.

Mr. COLBURN. I move that the Convention adjourn until half-past two o'clock. I desire to say that I wish, so long as I am a member of this Convention——

Mr. WILSON. Is that motion debatable, except as to the time?

The PRESIDENT. It is debatable.

Mr. COLBURN. I was about to say that as long as I am a member of this Convention, I shall reprobate all attempts to adjourn over beyond the usual time, until after we get through with our work. And I hope the Convention will discountenance every attempt hereafter to adjourn over until Monday until after the afternoon session. I consider the action which has been had here by certain members as an attempt to force us to adjourn over until Monday, or else to do nothing at all. I wish it understood that I am opposed to all such proceedings.

Mr. STANNARD. I believe that so important a subject as the disposition of the School lands of this Territory should not be passed over in haste; and that is the reason why I aided what little I could in engineering this matter as it has been to-day. The gentleman may make as many charges as he pleases, but I say to him that it is the practice of all parliamentary bodies to consider Saturday as a *dies non*, and it is not customary to sit Saturday afternoons. It is a sort of holiday. So far as the transactions of to-day are concerned, I feel perfectly justified in what I have done, in my own heart, and before my constituents.

Mr. GALBRAITH. I wish to say one word in explanation. I tell gentlemen that as long as I sit here, I will never suffer so important a measure as this to be crowded down my throat, until I have exhausted every species of parliamentary tactics within my reach. The expressions of members upon this floor show that this matter has not been fully considered. It may be first rate as far as it goes; and the only reason why I took such a part in these proceedings as I have, was to prevent the question being finally taken now, for I believe gentlemen will themselves, upon further consideration, amend it themselves. And how much shall we gain if we throw this matter before the public in its present shape? Does it go far enough? Is not another section needed to complete it? I think so, and that was the only reason why I took the course I did—not that I wanted to adjourn over until Monday, for I care not whether we do so or not. And here I wish to remark, there are some gentlemen here most anxious not to adjourn until Monday, who have not appeared in their seats more than ten or fifteen minutes at a time, for a week past; and now they come up and tell us we shall not adjourn until Saturday afternoon.

Mr. COLBURN. It has been no object of mine to force this matter to a vote. But those gentlemen I referred to have voted against adjourning until half-past two o'clock. Between this time and that there is sufficient leisure to examine this matter. The fact that they opposed every motion to adjourn to a certain time, satisfied me what their object was. I do not come here to spend my holidays.

Mr. LYLE. I wish this Convention to take proper time to consider this subject. I consider it as the most important measure which has yet come before the Convention. As the mover of this substitute, I do not wish to hurry it through. I wish to take sufficient time to allow members to offer amendments which will guard the School fund of the State, and I hope to see it done. I have voted against adjourning over until Monday for the purpose of advancing our business as rapidly as possible. If gentlemen are not prepared to offer amendments this afternoon, lay the matter over until another time, and take up some other business upon which we are prepared to act.

Mr. COGGSWELL. As the only motion pending is to adjourn until half-past two o'clock, and as it is giving rise to considerable debate, I move the previous question.

The previous question was seconded and the main question ordered to be put.

The question was put, and the Convention adjourned until half-past two o'clock.

AFTERNOON SESSION.

EDUCATIONAL INSTITUTIONS, &c.

On motion of Mr. HARDING, the Convention resumed the consideration of the report of the committee upon Educational Institutions and Interests; the pending question being on the substitute offered by the gentleman from Mower County (Mr. LYLE).

Mr. SECOMBE. I believe a demand for the previous question is pending.

Mr. FOLSOM. I moved an amendment to that substitute.

The PRESIDENT. That amendment was not in order, as an amendment to an amendment was then pending.

The demand for the previous question was not sustained.

Mr. FOLSOM. I now move to strike out the word "exclusive," in the second section of the substitute. It now reads "but no religious sect or sects shall ever have any exclusive right to, or control of any part of the school fund of this State."

Mr. LYLE. I accept the amendment.

Mr. SECOMBE. I wish to say now what I was prevented from saying at the time the Convention adjourned, and that is, that there was a misunderstanding upon the part of this Convention of the object of myself in calling the previous question upon the adoption of the substitute. It was the intention of no one, so far as I know, to take any final action upon this matter at that time, but to adopt the substitute as a basis. It would then remain open for amendments, if gentlemen had any to offer. I had myself one to offer, whenever I found a proper place for it.

Some remarks have been made in reference to the motion to adjourn. I voted every time to bring the question to a vote, until I saw the determination of the Convention was the other way, and then I voted to adjourn.

I hope the substitute will be adopted. I did not take part in the discussion this forenoon, but waited until something should be offered which, to my mind, would be a proper basis. If we adopt this substitute we shall have the opportunity to amend it by additional sections, if the Convention is satisfied with this so far as it goes. It seems to me best to adopt it so far as it does go.

Mr. DULEY offered the following additional section:

"Provisions shall be made by the Legislature for the sale of all school and university lands. Said lands shall be sold in small parcels and to the highest bidder, except in cases where the land may have been occupied previous to the government survey."

Mr. HUDSON. If I understand the import of the amendment, it is that the Legislature shall provide for the sale of all school lands, and that they shall be sold in small parcels, and to the highest bidder, except in cases where the lands may have been occupied previous to the governmental survey. A question might arise how much of the previous portion of the section may be modified by the expression "except where "the lands may have been occupied previous "to the governmental survey." I suppose that the intent of the gentleman was to provide that those lands which should have been s

occupied, shall not be sold to the highest bidder; but that lands unoccupied should be sold to the highest bidder—that the first should be sold in some other way. I think the amendment may be construed to make no provision for lands previously occupied.

Mr. DULEY. I think the section very plainly sets forth the terms upon which the lands shall be disposed of, which were occupied previous to the survey. I am aware that a great portion of the school lands have been settled on previous to the survey, and provision is made by the Enabling Act whereby the State may receive an equivalent for those lands.

Mr. HARDING offered the following substitute for the additional section:

"All school lands belonging to the State previous to being offered for sale shall be appraised by a board of Appraisers who shall be appointed by the Superintendent of Public Instruction; and no such lands shall be sold for less than the appraised value, but shall be sold in small parcels and at public auction."

Mr. McCLURE. There seems to be a disposition manifested by some members of this Convention to prescribe a certain course which the Legislature shall pursue. Now I believe it is said that every generation grows wiser and weaker. It seems to me that we ought to leave something for the Legislature to do. Now I never expect to occupy a higher position in public life than a representative here, but others will probably be elevated far above the sphere of legislator, and it is a mistake when they come to the conclusion that those who come after them will not be so competent as they to attend to this matter. I believe that when we are dead and gone, unless it may be some at the other end of the Capitol, there will be wiser heads than ours, and they will be in the Legislature to control this matter. I think the only thing we have to do, is to lay down general principles and leave the details entirely to the Legislature. We ought not to say that those lands shall be sold so and so, but leave the details with the Legislature to prescribe as circumstances may require.

Mr. WILSON. Mr. PRESIDENT, when we talk about the honesty of the Legislature we must close our eyes upon the past. This school fund is an immense one. I understand that we have about three million acres of land, and they will be worth ten millions of dollars. Now legislatures have been swerved from the path of right, and to say that it is assuring in us to restrict the Legislature, is not good logic or good sense. No influences are brought to bear upon us here. We are not surrounded with the influences which speculators use with the Legislature. Looking at the past we must see the danger of leaving this thing unrestrained. Therefore I believe it to be our duty to restrict the action of the Legislature. And by no principle of reasoning whatever, can we avoid this conclusion. I do hope that we, as a Convention, framing a Constitution, will throw such restraints around the sale of the school lands as will make it as nearly impossible as practicable, for the Legislature in any way, to squander them either by acts of omission or commission. I am astonished to hear gentlemen talk of the Legislature, as though they never could do wrong. It has almost become a matter of course, when there is so large a pile as this, for the Legislature to step aside from the path of right.

Mr. SECOMBE. If I understand it correctly, we now have the report, a substitute for that, an amendment to the substitute, and finally a substitute for the substitute. Now I want to get at the bottom of this matter once, and therefore I again move the previous question.

Mr. COLBURN. I hope we shall not be forced to a vote upon the question without consideration. The amendment to the substitute offered by the gentleman from Winona, (Mr. DULEY) seems to have struck a point upon which there appears to be considerable difference of opinion, and I know not why our discussion should not be as well upon this question as on any other. For my own part I am opposed to it. I am satisfied that the substitute ought to be adopted in the place report, and I am not willing to go any further than that goes in restricting the action of the Legislature. One gentleman is very apprehensive of the honesty of our future Legislatures, and he reminds us of other and past Legislatures, where they have pursued a wrong course. But I am reminded, too, that Constitutional Conventions have made mistakes, and so great mistakes that the people have refused to endorse their action. And it seems to me that we make a mistake, if we

restrict the action of the Legislature further than is proposed in the substitute for the report. The Legislature may think best to adopt the system of leaving to the counties or districts the management of these lands. If they should, it seems to me that those counties or districts should have the right to sell the lands in such manner as they think proper. If the proceeds are to be given to them, the lands ought to be disposed of by them in their own way. With the example of Wisconsin before us, and knowing the feeling which exists in community upon this subject, I think it would be difficult indeed for any body of speculators to buy up the Legislature for the present. If there is any argument to be drawn from the case of Wisconsin, I think it is in favor of leaving the matter with the Legislature, because that case will be a warning to them.

There are some other reasons why I am opposed to putting these restrictions into the Constitution. It has been said here that there are a large number of men in the Territory interested in these school lands. Now if you insert a clause in the Constitution which they consider unjust, they will not be likely to approve of the Constitution; and it may be that a majority for this or the other Constitution may turn upon that very point, and upon their votes. At any rate, I am satisfied that a provision of this kind would prevent many persons from voting for the Constitution, and as I feel perfectly safe in leaving the matter to the Legislature, I shall vote against an amendment of that kind.

Mr. NORTH. If there really be force in that last objection, and if those men who are upon the school sections are already so strong that it is not safe now to take a stand against them, I inquire how long it will be before the whole of our school lands will be picked up by those men?

Mr. COLBURN. The gentleman must have misapprehended my meaning. My idea was, that there being nearly an equal division of opinion upon this question, it would require but very few votes to turn the balance, and there might be enough of that very class to turn the scale against the Constitution.

The amendment to the additional section was not agreed to.

The additional section was not agreed to.

The substitute for the report was then adopted.

Mr. SECOMBE. I now offer the following as an additional section:

"SEC. — The proceeds of all lands that have been, or may hereafter be granted or set apart and reserved by the United States, to the Territory or State of Minnesota, for the use and support of a University, shall be and remain a perpetual fund, to be called the "University Fund," which shall be appropriated in such manner as the Legislature of said State may prescribe, to the use and support of "The University of Minnesota," but for no other purpose. And the said University shall forever remain one and indivisible."

I would say in support of the amendment that in February 7, 1851, the Legislative Assembly of this Territory incorporated "the University of Minnesota," and provided for its government. It has been in operation ever since. At the time it was incorporated, it was provided by the terms of the act, that all lands which should hereafter be granted by the United States, should be a perpetual fund, to be called the "University Fund," to be applied to the use and support of that University. I propose this section as carrying out the terms of that act.

Mr. MANTOR. I can see no particular use of that section. In looking at the second section of the Enabling Act, I find all that is necessary to be provided for in reference to this matter.

Mr. WILSON. Will the gentleman inform us how many acres were granted for the use of that University.

Mr. SECOMBE. There was passed, not many days from the passage of this act of the Territorial Assembly, an act of Congress which provides that there should be set apart and reserved for the use of the University in the Territory of Minnesota, two townships of land, under the direction of the Secretary of the Interior. That land has been, to a greater or less extent, set apart and reserved. There was, I believe, some additional legislation by Congress to the effect that the Board of Regents of the University might locate the lands subject to the approval of the Secretary of the Interior. Those lands have been selected by the Board of Regents of Minnesota, and their location has been partly or wholly approved by the Secretary of the Interior. In addition to that, there has been legislation by

the Territorial Legislature, authorizing the Regents of the University to raise a fund by bond and mortgage upon those lands. That has been done. And I understand the provision of the Act of Congress, called the Enabling Act, as being merely the carrying out of the offer which has been made in the former Act of Congress. A subdivision of section five of the Enabling Act provides—

"That seventy-two sections of land shall be set apart and reserved for the use and support of a State University, to be selected by the Governor of said State, subject to the approval of the Commissioner of the General Land Office, and to be appropriated and applied in such manner as the Legislature of said State may prescribe for the purpose aforesaid, but for no other purposes.,'

My object is, that the University of Minnesota, as it has been incorporated by the act of the Territorial Legislature, and as it has actually received the benefits arising from those lands, shall be made by the Constitution, the recipient of the benefits to be derived from them.

Mr. STANNARD. I do not believe in making ex-post-facto laws, or in making any regulations which will vitiate the terms of contract obligations. If I understand the matter correctly, funds to complete the building have already been raised by bond and mortgage upon those lands.

Mr. SECOMBE. I understand so.

Mr. STANNARD. I am not disposed to tie up those lands in a perpetual fund, if they have already been pledged for money which has been expended. I certainly would not put an officer of the University in a position that such a provision would place him in. I do not understand the act of Congress to say that it shall be and remain a perpetual fund, but that it is to be appropriated for the support of an University, no matter whether it be used to build a building, to purchase a library, or anything else of that kind.

Mr. WILSON. I move to amend the amendment by striking out the words, "and "the said University shall forever remain one "and indivisible." I do not think it will be divided, but I do not want the University so tied up.

Mr. SECOMBE. By the act of Congress, approved February 9th, 1851, it was provided as follows:

"That the Secretary of the Interior be, and he is hereby authorized and directed to set apart, and reserve from sale out of any of the public lands within the Territory of Minnesota, to which the Indian title has been or may be extinguished, and not otherwise appropriated, a quantity of land not exceeding two entire townships for the use and support of a University in said Territory, and for no other use and purpose whatever, to be located by legal subdivisions of not less than one entire section."

And by the act of the Legislature of Minnesota, it was provided as follows:

"There shall be established in this Territory an institution under the name and style of the 'Univeraity of Minnesota.' The proceeds of the lands which may hereafter be granted by the United States to the Territory for the support of an Univeraity shall be and remain a perpetual fund, to be called the 'University Fund;' the interest of which shall be appropriated to the support of the University, and no sectarian instruction shall be allowed in such University."

Here we have, in the first place, the establishment of the institution under the style of the "University of Minnesota," with the provision that the proceeds of the lands which shall be granted for the University shall be an "University Fund," and shall be applied to the use of that institution. We have then an act of Congress setting apart and reserving such lands, and it does seem to me that there should be some disposition made of those lands, as well as of the lands set apart for the support of Schools; and my only object is to provide that that disposition shall be made in accordance with existing laws. The amendment I have offered, as an addition section, embraces, so far as I have been able to do so, that object.

Mr. WILSON. By a calculation of the value of that land, I find it will amount to some $400,000. That, the Legislature should have the right to dispose of as it sees fit; and it may be necessary to make a branch of the University, which could not be done under such a Constitutional provision.

The amendment to the amendment was agreed to.

The additional section, as amended, was not agreed to.

Mr. ALDRICH. I move to amend by adding, as an additional section, section four of the report.

Mr. PECKHAM. I move to amend that, by striking out the word "four" in line five,

and inserting "five," and striking out "twenty" and insert "fifteen," and striking out all after the word "school" in the sixth line and insert "which shall not have been maintained at least three months during the "school year."

Mr. STANNARD. I hope the gentleman will accept an amendment to strike out the words "three months." I think the interest of the people will be sufficient to keep up the schools for at least three months.

Mr. MORGAN. I hope the amendment of the gentleman from Hennepin (Mr. ALDRICH,) will not prevail. I believe the District School system is embraced in that fourth section. That matter should be left to the Legislature, to be provided for hereafter.

Mr. ALDRICH. I am not particular about accepting the amendment. I am aware that different rules prevail in different States. Some States include scholars between the ages of four and twenty, and others between the ages of five and eighteen. If our school fund is to be as large as many gentlemen expect, it will be sufficient to educate all scholars between the ages of four and twenty. But I accept the amendment.

Mr. HARDING. I move to amend the amendment as modified, by striking out the word "fifteen" and inserting "eighteen."

Mr. HAYDEN. I hope the amendment will not prevail. If it does, I shall be compelled to vote against the original amendment, entirely. I think that scholars should have the privilege of attending school up to the age of twenty-one. I have a family of children whom I want to send to school; and if we are to have a graded system, I want the privilege of sending them until they are twenty-one years of age, and I am opposed to restricting the privilege to a less term of years.

Mr. PECKHAM. I do not understand that the amendment will cut off any person from attending school, as long as he may desire. It only provides that the fund shall be distributed in proportion to the number of children who shall attend school between certain ages. The rule will be universal, and therefore just, equitable and fair through the whole State.

Mr. NORTH. We have adopted a substitute for the whole report, but I don't know but we had better go to work and put in all this report which we have once stricken out, and insert all the minutia of legislation, against which gentlemen have talked so much for half the day. If so, let us make clean work of it; but if we are to adhere to the decision of this morning, let us shut all these amendments out. I do not believe in going over the whole ground again.

The amendment to the amendment was rejected.

The amendment was then disagreed to.

Mr. ALDRICH. I move the following as an additional section:

"SEC. — The board of Supervisors in each County shall constitute a board of Appraisers, whose duty it shall be, within three months previous to the time any of the school lands in their respective counties are offered for sale, to fix the valuation thereof; and in no case shall any portion of said lands be sold for less than the appraised value, and only in small parcels."

Mr. STANNARD. Mr. PRESIDENT, I wish the gentleman would fix the limit of the quantity that may be sold—say how big it shall be; whether it shall be as big as a piece of chalk—or twenty or forty acres. (Laughter).

Mr. ALDRICH. I will modify the amendment so that it shall read:

"And shall be sold in quantities not less than eighty acres."

Mr. COGGSWELL. Mr. PRESIDENT, I have an amendment to that, to come in at the end of the section.

The amendment to the amendment was read, as follows:

"*Provided, always,* If at the time of the appraisement of any of said lands, the same shall be occupied by an actual settler, who shall have made improvements thereon, then the same shall be appraised at the actual value of what the same would have been worth provided the same had not been occupied, and exclusive of such improvements; and no person shall have the right to the possession of any such lands until the value of such improvements shall have been paid or tendered to the owner thereof; and, in all cases, if the owner of any such improvements shall be willing to pay said appraised value, then and in that case, he shall have a priority of right to the same."

Mr. HARDING. Mr. PRESIDENT, I hope the gentleman will strike out that part which gives the settler priority of right, if he chooses to pay the appraisement at any time. I don't like that.

Mr. WILSON. Mr. PRESIDENT, I hope we

do not intend to pass such a law as this. Where people have gone, with their eyes open, upon the school lands, I am in favor of leaving them to bear the consequences. If we make such a law, our lands will all run down to a dollar and a quarter an acre. I am in favor of having every man bearing the consequences of his own act. I think more of the school fund, than of the interest of any individual. And if we make one exception, it will be a great loss to the school fund.

Mr. COGGSWELL. Mr. PRESIDENT, I do not desire to talk on this matter; but if gentlemen are going to legislate here in regard to these school lands, I want to say a word for those men who have been so much abused for going on these lands. I want those men protected to a certain extent. I desire the yeas and nays to be called on my amendment; and that every member should be compelled to vote for or against it, that we may see how gentlemen stand on this school land legislation.

Mr. GALBRAITH. I will put down my name; and if any gentleman wants it plainer, I will tell him, that I believe that every man who settles on the school lands after the survey, and with knowledge of the fact, ought to loose his improvements, if he were the angel Gabriel dropped down! It is a public injury.

Mr. STANNARD. I believe that every man who lays claim to one foot of these government lands, is a trespasser against the State and the right of children yet unborn.

Mr. McKUNE. I would just as soon give up the whole—just as soon these settlers should have the remainder of the land. If we are to do an unjust thing, let us do something notorious.

Mr. BOLLES. Mr. PRESIDENT, If I understand the amendment, it is, that upon all school lands that may hereafter be settled, up to the time of appraisement, the improvements shall be taken into consideration. It says to these men, "put on your claims and "improvements, and you shall be paid for "them." My objection to the proposition is, that it holds out inducements to settle the school lands hereafter.

Mr. COGGSWELL. So far as I am concerned, Mr. PRESIDENT, I had just as lief make myself notorious in advocating this amendment as not. I am entirely willing to take all the responsibility—perfectly ready and willing to father the whole thing. But, sir, when we come to look at the character of the amendment, we find that it works nothing like wrong or injustice to the school fund. We do not find that the fund is to be depreciated by it in the least. We find that when the appraisement is made, it shall be, at what the lands would have been worth, provided they had remained untouched and unoccupied. Is not that enough? If I ask for more, I ask for injustice. Do you not get all you could get, provided the land was not settled upon? I ask any gentleman if that is not so?—and if, when the land comes to be appraised, the individual who has gone on there and made his improvements, shall be ready and willing to pay the amount of the appraisement, does he not pay a fair consideration for the land? All that it is worth, and all that men, acting under the sanctions and obligations of an oath, say that it is worth? Do you want twice their value? Do you want one cent more than they are worth? I know you do not intend any such thing, when you come to reflect upon it. I know that the interests of the children of the State do not demand any such thing. They demand nothing but what is right and just; and I say, when a man will stand up here, and ask of these hardy settlers any more than what is right and just, he is unworthy of the name of a representative of the people of Minnesota, let him come from what quarter he may.

Besides this, Mr. PRESIDENT, when a man has gone upon a piece of school land, not knowing so much about the lines as some gentleman here; when he has gone on innocently, and for the purpose of making such land his home as long as he may remain in this world; when he has gone on cultivating the soil and improving every day, making for himself a residence and reputation, helping to bear the burdens of government—I ask you, sir, would you turn him away from his improvements and his home? If any would do that, I ask the man to stand up now before the House and the people and say so.

Mr. GALBRAITH (rising). I say so.

Mr. COGGSWELL. I say then, Mr. PRESIDENT, that man is not the man to represent my section of the Territory. I say, moreover, that man is not the man to repre-

sent the interests of the school fund of the State of Minnesota; and woe to the man that will come into this Hall and undertake to advocate a doctrine of that kind. I say, Mr. PRESIDENT, it is rank iniquity and injustice; and I should not be true to myself and my trust, if I did not pronounce its condemnation.

All I ask is, that those who have gone upon these school lands innocently, and not knowing the collateral right, in the case, may be protected; that they may not be turned away from their homes—homes built under circumstances of peril and privation and toil, when it was like drawing their life blood. I know there have been such cases. I know of many. I know them well; and to turn such men away from their homes and their improvements—I say it is wrong, it is iniquitous and unjust; and in my judgment the man that would advocate such a proceeding is not the man to represent the best interests of this Territory.

Now, sir, let us do what is right and just in this matter; and that is, that the school fund shall receive a just and fair consideration; and that at the same time, the man that has gone upon the land, and given to it an increasing value, shall not be turned out upon the cold world without a dollar for his improvements. I know there are men upon the school lands willing to pay the price they would be worth, provided their rights were not to be touched—men who are able and willing to pay, and would secure and resecure the price—men of families, who have well cultivated farms—acres of corn, wheat, and potatoes—men who have paid taxes for the support of government—good, honest citizens. These men, sir, are part of the wealth and prosperity of this Territory, and I do not like to see them ruined. I will not, if I can help it.

Mr. GALBRAITH. Mr. PRESIDENT, I suppose it might be expected that I should get a little cross. But that is not the kind of stuff that makes me cross. I have simply to say on this matter—and I hope I shall say it quietly and peacefully—that there is a regular rule about everything. I suppose every man will admit, that no man can settle on a school section of surveyed land, without knowing that it is a school section; and I say again, that, knowing what he is about, he has no more right there, than if it were individual property. He might just as well go upon my land.

Now, where are you going to draw the distinction? If you let the good, moral, industrious, improving man go upon them, I can go, and Tom, Dick and Harry can go upon them; and where one would go upon these lands with decent husbandry, and increase their value, one hundred would go upon them skinning and withdrawing the life-blood of the land.

These school lands are now held in trust for the State by the government of the United States; and as soon as we shall be a State in the Union, they will be held by the State in trust for the children of the State. If we allow one to settle them, we must allow all, else our rule will not be equal and democratic, as gentleman would have us to be. We are asking for nothing wrong. We ask only for the value of the land—the money the land will bring; and that these men shall not go upon it and cultivate it, well or ill.

The best plan is to keep all and everybody off entirely. That is the plan that I advocate, and I think it is a plan that a majority of this Convention will advocate. If one man goes on, others may go—have not I as good a right as any other man?—and then get an appraisement, and an assessment of damages! Why, sir, the school lands in every part of the Territory would be settled upon in one month after such a proposition should become a law; and there would be vast associations and combinations formed—and they are already formed—to unite in large bodies and break down the sales of the school lands, and thus the school fund would be thrown away. I tell you, sir, we ought to hedge about this fund; and that is the only thing we have not done enough of. We want a hedge about it. The proposition we have just adopted is a good one. It enunciates a good sound principle; and if I can find means to hedge about this land, so that no man can go upon it to the hurt of the school fund, I shall vote for it.

Mr. STANNARD. I want to say a few words in reply to the gentleman from Steele County, (Mr. COGSWELL.) He seems to think there will be no other result of his amendment than the protection of the settler. But

if I wanted to do a kind thing, especially for the boys, to go into the woods and help themselves, I would vote for his amendment. I know there are valuable timbered school lands; and under this protection, the boys could go upon them, cut wood as they please, and get pay for so doing besides. I think the gentleman's speech would look well, if he were arguing for the repeal of the law, which makes it the duty of the County Commissioners to supervise and prevent depredation and waste of timber on our school lands.

The yeas and nays were ordered on the adoption of Mr. COGGSWELL's amendment, and being taken resulted—yeas 7, nays 35—as follows:

Yeas—Messrs. Colburn, Coggswell, Hanson, Mantor, Phelps, Thompson, and Vaughn.—7.

Nays—Messrs. Aldrich, Anderson, Ayer, Balcombe, Baldwin, Bates, Billings, Butler, Cleghorn, Coombs, Davis, Duley, Eschlie, Folsom, Galbraith, Gerrish, Hall, Hayden, Harding, Hudson, Holley, Lyle, McKune, McClure, Messer, Morgan, Murphy, North, Putnam, Peckham, Stannard, Secombe, Watson, Wilson, and Sheldon.—35.

So the amendment was rejected.

The question was then taken upon Mr. ALDRICH's second amendment, and it was also rejected.

Mr. ALDRICH. I now offer the following additional section:

"SEC. —. Institutions for the benefit of those inhabitants who are deaf, dumb, blind or insane, shall always be fostered and sustained."

Mr. BILLINGS. Mr. PRESIDENT, I propose to amend the section, so that it would read, "Institutions for the benefit of persons "who are deaf, dumb, blind or insane, shall "always be fostered; and the Legislature "shall encourage the promotion of intellectual, "scientific and agricultural improvements, and "as soon as practicable provide for the establishment of an Agricultural School, and "place the same under the supervision of the "Regents of the University."

The amendment to the amendment was rejected.

The original amendment was also rejected.

Mr. ALDRICH. I offer the following as an additional section:

"SEC. —. The Legislature shall encourage the promotion of intellectual, scientific, and agricultural improvements, and shall as soon as practicable provide for the establishment of an Agricultural School. The Legislature may appropriate all salt springs, with the six sections of land adjoining or contiguous thereto, to which the State, on admission to the Union shall be entitled according to the provisions of the Act of Congress, entitled 'An Act to authorize the people of Minnesota to form a Constitution and State government preparatory to their admission into the Union on an equal footing with the original States,' and any land which may hereafter be granted or appropriated for such purpose, for the support and maintenance of such school, and may make the same a branch of the University for instruction in Agriculture and the natural sciences connected therewith, and place the same under the supervision of the Regents of the University."

This amendment was also rejected.

Mr. ALDRICH. I move that the rules be so far suspended as to allow this report as amended to be referred to the Committee on Arrangement and Phraseology.

Mr. GALBRAITH. Was the substitute adopted in place of the report?

Mr. ALDRICH. It was adopted without change, except that one word was stricken out.

Mr. MCCLURE. It seems to me that our rules contemplate the reference after the report is read a third time.

Mr. PUTNAM moved (at half-past four o'clock,) that the Convention adjourn.

The motion was not agreed to.

Mr. PECKHAM. Before the question on suspending the rules is taken, I wish to move to amend the report by restoring the word "exclusively," which was stricken out.

The PRESIDENT. The motion is not in order.

Mr. PECKHAM. I move to reconsider the vote by which the Convention struck out that word.

The PRESIDENT. That motion is out of order, until the other motion is disposed of.

The question was taken on the motion of Mr. ALDRICH, and it was agreed to.

And thereupon, the report, as amended, was referred to the Committee on Arrangement and Phraseology.

And then, on motion of Mr. FOLSOM, (at five o'clock and forty minutes,) the Convention adjourned.

NINETEENTH DAY.

MONDAY, AUGUST 3D, 1857.

The Convention met at nine o'clock, A. M.

Prayer by the Chaplain, Rev. E. D. NEILL.

The journal of Saturday was read and approved.

REPORT OF COMMITTEE.

Mr. COGGSWELL, by unanimous consent, made the following Special Report:

"The Committee upon the Preamble and Bill of Rights, to whom was referred the Petition of B. F. BOND and others, citizens of the County of Dodge, praying 'that the liberty and right of conscience 'to all citizens may be secured,' have had the same under consideration, and beg leave to report—

"That they believe it to be our duty to incorporate nothing into the Constitution except general and fundamental principles, which are calculated to guard and protect the rights of all men equally, and that clause of the eighteenth section of the Bill of Rights, heretofore reported by us, which is 'Nor shall any control or interference with the 'rights of conscience be permitted, &c.,' will secure substantially the objects desired by said petitioners, and that if any further specific or special privileges in regard to the service of civil process, and the days of holding elections, not mentioned in the Constitution, are required, that the same should be done, by the Legislature, and not this Convention. Therefore, your Committee would respectfully ask to be discharged from the further consideration of the subject."

The Report was accepted, and the Committee discharged.

COUNTY AND TOWNSHIP ORGANIZATION.

On motion of Mr. COLBURN, the Convention resolved itself into a Committee of the Whole, (Mr. GALBRAITH in the Chair,) upon the Report of the Committee upon County and Township Organizations. (For Report, see proceedings of July 29th.)

The Report was read by clauses, for amendment.

SEC. 2. No new county shall be formed or established by the Legislature, of less area than four hundred square miles, nor shall any organized county be divided, or have any part stricken therefrom, without submitting the question to a vote of the electors of the county or counties to be directly affected or dismembered, and unless a majority of all the votes shall be in favor of the same.

Mr. BILLINGS moved to strike out section two.

Mr. WILSON. I hope the section will not be stricken out, for the reason that the matter of changing the boundaries of counties has been a subject of fraud from beginning to end. There is is no subject upon which there have been more iniquitous proceedings, more high-handed villainy, than in the matter of changing county boundaries and county seats, even in our own Territory. It has been done as a matter of political discipline in some cases. It is made a matter of bargain in the Legislature, by promising votes for such purposes, in order to procure votes for other matters. Thus the interests of the people are bargained away. There have been cases before the Legislature—and it is said that some of our Winona delegates were engaged in it, though I do not know that it is so—when the Legislature came near fixing a county seat where there was not a settler. There have been cases where they have taken off a part of one county and attached it to another, where there was not only no necessity for it, but where it made the county of a bad shape. It has been so done for the purpose of making political capital of some sort. Now, such being the case, the Legislature ought to be placed under some restraint in this respect. The people know better than the Legislature can know, what boundaries they need, and I am opposed to having the boundaries of any county changed until the people express a desire for it.

Mr. BILLINGS. I see nothing in this section in regard to changing county seats. We cannot make four hundred square miles contain any even number of townships, and the fact that it will contain a certain number and a fraction, indicates to me that it was recommended to subserve some special purpose. There are many townships in the Territory which contain nine townships, and the people are perfectly satisfied. If they want twelve let them express their wish to that effect. I have no objection to having the people vote for or against such a proposition, but I am opposed to saying in the Constitution, that they shall not have less than such an amount, for cases may arise when counties with nine townships will be better prepared to support the burdens of a county organization, than other counties with twelve or twenty townships. My objection is not that the people shall not have the right to vote, for I would enlarge rather than restrict that right.

Mr. MESSER. If the gentlemen has an objection to the first part of the report, I hope he will offer an amendment to it. I know that last winter the Legislature came very near

removing the county seat of McLeod county from Glencoe to a place upon a small lake, when, in fact, there were no inhabitants within five miles of that place. This is an important matter, and it seems to me that some restriction should be thrown around the power of the Legislature in that respect. Something should be done, also, in regard to the areas of counties, because I believe counties have been organized containing only one township.

Mr. BALCOMBE. I am in favor of striking out this section, but not for the reason that I am not in favor, substantially, of the section, for I am. It contains a good restriction, but there are many good laws and restrictions which it would not be wise for us to insert into the Constitution. I was in favor of the system of schools reported by the committee the other day, but, upon reflection, I came to the conclusion that it was not best to attempt to insert that system in the Constitution. Now I am in favor of this section, and were I in the Legislature, making general laws, I should vote for such a law; but I do not think it judicious and proper to incorporate everything which may be good into our Constitution. Therefore I am in favor of striking out the section. The county seat question does not properly come into consideration on the motion to strike out this section, for that subject matter is in the next section.

Mr. WILSON. Now, Mr. PRESIDENT, I hope this pretext of being opposed to legislation in the Constitution, will not be made, when gentlemen know that the Legislature will go astray. The very gentleman who has just taken his seat, my colleague, offered an amendment, the other day, to the third section of the report on the Preamble and Bill of Rights, which amendment went into the most minute legislation, and now he comes up here to-day and on a subject which interests every county in the State, objects to it because it is legislating in the Constitution. I hope gentlemen will not be driven from their positions on any such grounds.

Mr. FOSTER. My opinion is, that this matter should be left to the Legislature. This section, if adopted, would make those counties which have already got their county seats fixed to their present liking, permanent. Now this is a new country yet, and as population increases, it may be desirable to make many alterations, and I would not so arrange the matter in the Constitution that the people cannot, without great delay, and immense trouble, make such changes as they think proper.

The section provides that no new county shall be formed of less area than four hundred square miles.

Now that does not contain an even number of townships, and to fix the limits might cause inconvenience in constructing the counties. Here are counties bounded by rivers, and irregular lines, and it may at some time be convenient to lessen their size and put them into better shape. It strikes me that it is one of those provisions which may safely be left to the Legislature.

The motion to strike out was not agreed to.

Mr. CLEGHORN offered the following substitute for section two:

"No organized county shall ever be reduced by the organization of new counties to less than sixteen townships, as surveyed by the United States, unless in pursuance of law, a majority of electors residing in each county to be effected thereby shall so decide."

Mr. FOSTER. My objection to that is that there are quite a number of counties already in the Territory which have less than sixteen townships. In Iowa the rule has been to have not less than twelve townships, I believe, in a county.

Mr. CLEGHORN. My amendment has reference only to counties which may be formed hereafter.

The amendment was agreed to.

Mr. HARDING moved the following substitute for section two as amended:

"No new counties shall contain less than nine townships."

Mr. CLEGHORN. I rise to a question of order. I believe it is not in order to strike out a substitute after it has been once adopted.

The CHAIRMAN. The Chair decides that it is not in order.

Mr. FOSTER. The substitute, if adopted, would prohibit the formation of counties of less than nine townships, and would leave the details of the matter with the Legislature. I am in favor of that.

Mr. HARDING. There are some very large counties in this Territory and I contend

that if the people prefer to support smaller counties, where it can be done without injury to existing county organizations, they should have the privilege of so doing. In some cases we live twenty and thirty miles from the county seats of the present counties, and it is attended with a great deal of trouble and expense to go that distance to transact our county business.

Mr. STANNARD. This limiting the counties to a particular size strikes me as a childish notion. I am always in favor of large States, large counties, and large towns, if possible. They possess more means, more character and more influence. But whenever the people are disposed to support a county organization, I think it is proper that they should not be restricted by a constitutional enactment. I care not how large a county corporation the people may wish, nor how much Territory they may feel disposed to include within them. And I think it is their privilege to say how much they will have. In this western country, and especially in the Territory of Minnesota, it so happens that nature frequently fixes, as it were, the lines of the counties, and it would be a very great inconvenience to have the counties restricted to a certain size. For instance, there is a certain tract of land included within the forks of a river, which it might be more convenient to have in a separate and distinct organization. I am opposed to all restriction as to the number of townships which shall be included within a county, for I am in favor of leaving that to the people to decide that matter for themselves.

The substitute was then rejected.

Mr. FOLSOM offered the following as a substitute for the second section as amended:

"No organized county shall be divided, or have any part stricken therefrom, without submitting the question to a vote of the electors of the county or counties to be directly affected or dismembered, nor unless a majority of all the votes cast shall be in favor of the same."

The substitute was agreed to.

Mr. FOSTER. I voted for that substitute, as approaching very nearly to what we wanted, but I do not think it is exactly the thing yet. It gives to the large counties the power of always preserving themselves from alteration. I will offer now, as a substitute for that, an amendment differing very little from the original section.

"No new county shall be formed or established by the Legislature of less area than twelve townships without submitting the question to a vote of the electors of the county or counties to be directly affected or dismembered, and unless a majority of all the votes cast shall be in favor of the same."

That will give the Legislature a discretion in the formation of counties above a certain size, but when it is proposed to reduce a county below that size, it is made a question for the people to decide whether they will stand the burden of a small county. For instance in the case of St. Paul and Ramsey County there is no question but that the policy of the people is to cut down their county to an exceedingly small size. It would be proper for them to do so, and it would suit the other counties around her. But if you leave the matter in the form in which it has been placed by the substitute of the gentleman from Chisago (Mr. FOLSOM), it will be impossible under the Constitution, to do so. Here is a mass of people whose interests are centered within an area of a few miles around, and they want to be together by themselves. The same will be true in reference to other cities, and I think we should leave the door open, so that the people may vote to do so if they see fit. I think it will prove an unwholsome provision to put this restraint of a popular vote upon the Legislature, when counties are to be formed below a certain size. The Legislature, last winter created a county embracing one single farm, as it were, which had only sixty votes. Of course I want to see all such operations stopped. On the other hand we might err by prohibiting too much. I think a medium ground is the best, and I hope my substitute will be adopted.

Mr. SECOMBE. While I am in favor of the vote of the people being respected as a general thing, yet I am opposed to the Legislature being absolutely bound by that vote. The gentleman who has just spoken, alluded to the County of Ramsey, and I will use that case as an illustration. A portion of the County of Ramsey as it now exists, is separated from another portion by the intervention of two counties—the counties of Anoka and Isanti—a portion of it being a hundred and fifty miles away from the city of St. Paul. Now all the provisions which have been offer-

ed here, would restrain the Legislature from making a new county of that portion which lies one hundred and fifty miles away from St. Paul, unless a majority of the voters of the whole county should be in favor of it. Well, there being a majority of the voters here in St. Paul, and it being desirable that the people living one hundred and fifty miles away should help support the county organization; they receiving no benefit of that organization whatever, they of course would always vote against a dismemberment of the County of Ramsey. That would be unjust and unreasonable. There may be many instances where the Legislature would see that it was just and reasonable to dismember a county, and form a new county out of two or three other counties, where a majority of the people of those counties would be opposed to it. Of course, they would naturally be opposed to having their county dismembered, as they would thereby lose a portion of their taxpayers. While I would have a vote of the people taken upon such a measure to ascertain what their views are, and that their views should be respected, yet I would certainly be opposed to the Legislature being bound and governed by that vote. It would give the majority the absolute power of restraining the minority, when the Legislature would see that it was eminently just and proper that the wishes of the minority should be respected.

I hope therefore there will be some alteration of this section. For my own part, I would leave it so that no new county should be formed until a vote of the people in the part affected by it shall have been taken, and I would leave the Legislature a discretion after that.

Mr. WILSON. I wish to call the attention of some members to the fact that this proposed amendment does not come up to what we want. It does not prevent changing the boundaries of counties. For instance, there is nothing to prevent cutting off five or six miles from one county and adding it to another, thereby making the shape of the counties very bad. It does not prevent the Legislature from resorting to all kinds of tricks of that sort, just as they have heretofore. I hope the substitute will be voted down.

Mr. ALDRICH. I should like to see an amendment offered, which should leave the matter to be decided by a vote of the people of that portion of the county proposed to be cut off. If the people of any portion of a county desire to be cut off from that county, and to be attached to another, let them decide it.

Mr. FOSTER. If they, and the Legislature, should agree to that, nobody should except to it.

Mr. ALDRICH. To leave the matter to a vote of the people of that portion of the county, would give the people living in that portion of Ramsey county, situated one hundred and fifty miles from here, the privilege of being set off by themselves, if they desired it, instead of being attached to Ramsey county.

I move to strike out the words "the county" and all that follows it, and insert in lieu thereof the words "that portion of the Territory which it is proposed to set off or divide."

Mr. McKUNE. I hope the amendment will not prevail. The effect of it would be to give the right to the minority to dictate to a majority of the county; and in that way, in many instances, prejudice the interests of the majority. By a few votes of a township, voting to be set off and attached to another county, a change of the center of the county might be made, against the best interests and the wishes of the county, thereby compelling an alteration of the County Seat. For that reason, I am very much opposed to giving to a minority the power to say to a majority what they shall do.

Mr. SECOMBE. It seems to me that there can be no absolute rule laid down by this Convention on this subject. The gentleman from Hennepin county (Mr. ALDRICH,) contended that it would be right and proper for the inhabitants of the portions of the several counties to be set off, to determine that matter. Now I cannot agree with the gentleman, because you scarcely find the inhabitants of three or four counties that corner in together, but would be desirous of forming a new county; especially when town sites are so much in demand as at the present time. If the inhabitants of those parts of the counties to be incorporated into a new county, were allowed to govern in that manner, they might do great wrong to the inhabitants of other portions of the counties. We had an illustration of that during the last two sessions of the Legisla-

ture. An attempt has been made by the inhabitants of a certain portion of Scott county, and one or two other counties, to form a new county; and undoubtedly the inhabitants of those portions of the counties calling for the new county, were unanimously in favor of it. Yet the inhabitants, at large, of the counties proposed to be dismembered, were opposed to it.

Now while I would be opposed to binding the Legislature by a majority of all the inhabitants of the counties to be affected by the change, I would also be opposed to the Legislature being bound to respect the will of a majority of those who wish to have a new county formed. I think the one would operate unjustly, as well as the other. It seems to me that we cannot form any absolute rule. I prefer that it should be left with the Legislature, but that they should first take the sense of the people, not only in all the counties to be affected, but also the sense of the people to be affected by the particular locality which is desired to be formed into a new county, and then leave it to their discretion.

Mr. COLBURN. It seems to me that the difficulty which will arise from incorporating sections of this kind into the Constitution must be obvious to every one. As has been suggested, there are a great many counties in this Territory cornered on to each other, and lying in such a manner that by taking a few townships from each, a new county might be formed, with a County Seat more convenient to those sections than the present County Seats are. It is well known that at the present time there is a great squabble for the County Seats. Many sections of counties consider it absolutely necessary to their existance that they should have the County Seats very near them. Under such circumstances, we shall have a great deal of confusion arising out of a Constitutional provision of this kind. It may meet the particular case of the gentleman who offered it; but while it would answer very well in that instance, it would work mischief in many others, it appears to me.

The question was then taken, and the amendment was not agreed to.

Mr. WILSON. I offer the following substitute for the substitute:

"SEC. 2. No new county shall be formed or established by the Legislature of less area than four hundred square miles, unless a majority of the qualified voters residing within the limits of the proposed county vote in favor of the same; nor shall any organized county be divided, or have any part stricken therefrom, without submitting the question to a vote of the electors of the county or counties to be directly affected or dismembered, and unless a majority of all the votes cast shall be in favor of the same."

I will explain the difference between that and the original section; and I think this is what a majority of the members of the Convention want. It is the same as the original section, with this change—after the word "miles," in the second line, I have inserted the words, "unless a majority of the qualified "voters residing within the limits of the pro-"posed county, vote in favor of the same." That obviates the difficulty suggested by my friend from Chisago. Where a new county is to be formed, and the territory from which it is to be formed is in such a shape as to make it necessary that the county should be composed of a less area than four hundred square miles, it can be done by a majority vote of the people residing within the Territory of which the county is proposed to be formed. They are the ones to be affected by it; they are the ones who have to support the county organization, and if they say that they prefer a county of a certain size and shape, let them have it.

My amendment then goes on to provide for dismembering or changing the shape of organized counties. It accomplishes all we want, and nothing more. It leaves the matter with the people of the counties, where they are the only ones to be affected by the change.

The amendment was not agreed to.

Mr. KING offered the following substitute:

"No new county shall be formed or established by the Legislature of less area than four hundred square miles, nor shall any organized county be divided, unless in the judgment of the Legislature the *case* shall imperatively demand it; but the speculative wishes of the people shall not make an imperative case."

The substitute was rejected.

The question was then taken on the substitute offered by Mr. FOSTER, and it was rejected.

SEC. 3. No county seat shall be removed until the point to which it is proposed to be removed shall be designated by two-thirds of the Board of

Supervisors of the county, and a majority of the electors of the county voting thereon shall have voted in favor of the removal of the county seat to the proposed location in such manner as shall be prescribed by law."

Mr. HUDSON. I move to amend that section by striking out the words "two-thirds "of the Board of Supervisors of the county "and"

Mr. ALDRICH. I move to amend the amendment by striking out also the words "shall have voted in favor of the removal of the county seat to the proposed location."

Mr. STANNARD. I move to strike out the whole section. I am satisfied that this Convention should not establish any rule which shall apply to all cases indiscriminately. The condition of our Territory will not admit of such a general rule.

The motion to strike out was lost.

The amendment to the amendment was lost, and the amendment itself rejected.

Mr. THOMPSON moved the following substitute for section three:

"No county seat shall be removed until a majority of the electors of the county voting thereon shall have voted in favor of the removal in such manner as shall be prescribed by law."

Mr. STANNARD. I am opposed to that substitute. I think it would place it in the power of a few individuals in the county to get an act passed to submit the question to a vote of the people every year, and thus subject them to great inconvenience and expense. I think when a county seat has been established by the consent of the people, and public buildings erected, they should not be subject to having the question of removal raised upon them year after year.

Mr. SECOMBE. I am in favor of the substitute. The gentleman from Chisago is opposed to a removal of the county seat when it has been fixed by the people. Now it is well known that that is not the way in which county seats have been fixed in the Territory. As a general thing, they have been located arbitrarily by the Legislature, and without regard to the wishes of the people, merely to accommodate individual interests in particular localities. I see no objection whatever to a Constitutional provision restricting the Legislature in the exercise of such a power as that, and leaving it to a vote of the people of the whole county to determine. But I am opposed to requiring that two-thirds of the board of supervisors should first designate the location. I hope the substitute will be adopted.

Mr. BALCOMBE. I hope the substitute will not prevail. I believe in delivering the whole subject matter of county seats to the people themselves, without any interference upon the part of the Legislature. If we are to have any provision upon this subject in the Constitution—and I am opposed to that, as I was opposed to the insertion of a clause in reference to the size of the counties—I am in favor of a provision which shall put it out of the power of the Legislature to interfere with county seats at all; in favor of the section as it is, putting the matter into the hands of the supervisors, and the people. And I am also in favor of the two-third clause, so far as the supervisors are concerned. A majority of the people should rule, but in matters of this kind a vote of two-thirds of the servants of the people should be required.

Mr. HAYDEN. I am in favor of the substitute, because I am opposed to this two-thirds clause in reference to the supervisors. That would give a small minority of the supervisors the veto power. For instance, suppose a large majority of the people were in favor of the removal of the county seat, but one-third of the board of supervisors should be opposed to it; that one-third would have control of the whole matter, and would deprive the people of their rights.

Mr. BALCOMBE. If any gentleman is opposed to the two-third clause, that need not cause him to vote for the substitute, for he can offer an amendment, giving the power to a majority of the board of supervisors, instead of two-thirds. As I understand it, it is the intention of the section, that in the first instance, the board of supervisors shall propose the removal, and designate the point to which the removal shall be made. The proposal must be carried by a two-third vote of the supervisors, and the people are not permitted to vote until two-thirds of the board do vote and designate the point to which the removal shall be made. After that is done, then the people have a veto power upon the action of the board. That is, the people have the veto power, and not the board of supervisors. Gentlemen need not vote for the sub-

stitute in order to get rid of the two-third clause. They can vote down the substitute, and then amend the section so as to require the assent of only a majority of the board of supervisors.

The substitute will place the matter in the hands of the Legislature, and, as I said before, I am opposed to putting it in the power of the Legislature to make any proposals about the county seats. What do they know for instance, about the necessity of removing the county seat of Mower county? And why should they have any voice in the removal of it? Why should not the people of the respective counties have full power to do so, if they think a removal proper? The substitute places the matter in the hands of the Legislature as it always has been, with the addition that the action of the Legislature shall receive the sanction of a majority of the people. I want it out of the hands of the Legislature entirely, and in the hands of the people entirely.

Mr. FOSTER. I am in favor of the substitute, but I will direct my remarks particularly to the provisions of the original section in regard to the board of supervisors. In the first place, I agree with the gentleman from Hennepin county (Mr. HAYDEN) in reference to allowing one-third of a body of that kind to have a veto power upon two-thirds of the voters of this county. Again, I believe it is a wrong course to trust the matter in the hands of a board of supervisors at all. They are elected to perform other duties, and ought not to have this matter brought before them. The Legislature is a better body to go to, upon a mere local question, than the board of supervisors. The very fact that they are removed from the influence of local feelings, is in favor of entrusting it to them.

Another thing. The section assumes that there is to be a system of government by a board of supervisors, established. That is taken for granted, while I say that it is exceedingly doubtful whether we shall establish that system, or a different one. That matter is still undecided. In Iowa the people had the liberty of selecting their own system in the counties. Some counties that had been accustomed to township organizations, had the privilege of voting for the adoption of such a system, while other counties accustomed to a different system, had the privilege of voting for the plan to which they had been accustomed. But this section assumes that we are going to adopt a certain system.

The gentleman from Chisago, (Mr. STANNARD) objects to the substitute, because he thinks that under its provisions, a few persons might come to the Legislature every year and log-roll—and he is from a log-rolling county—a bill through to take a vote of the people upon this question. If I understand him, he is in favor of our doing nothing at all about it; the result of which would be to leave the matter open to allow anybody to come to the Legislature and log-roll a bill through, without referring the matter to the people at all. Now we need something to prohibit that thing. The people should have the power to change the county seats when they deem that the first location was not a proper one. When our counties shall become more populous, it may be found more convenient to have the county seats changed, and I want the Legislature vested with power to pass a law giving to the people the right to make such changes when they see fit.

Mr. BALCOMBE. In order to favor the adoption of the substitute, the gentleman has brought in an issue not properly under discussion at this time—and that is this matter of county or township organization. I am decidedly in favor of the supervisor township system, and decidedly opposed to putting the whole county business into the hands of three or more county commissioners. I would let each and every portion of the county have a voice in controlling matters pertaining to the county. It is a matter of very great interest to the people. The gentleman's remarks in reference to leaving this matter under the control of the Legislature seems to me to prove that we should take it out of their hands entirely. And I say to gentlemen here, who have not been members of our Legislature, that this coming to the Legislature to get county seats removed, is a particular humbug and a sham, and I say it is an interference on the part of the Legislature which should not be tolerated. I have myself been guilty of favoring the establishment of certain county seats. I acknowledge it. I did it simply because it seemed to be the practice of our Legislature to do so, and I

was called on to act upon that practice by a portion of my constituents; and I acted under what I supposed to be the direction of a majority of my constituents, in those particular instances. But at the same time such things are generally done under a log-rolling system, and gentlemen vote upon such a question who know no more about the propriety of it, than if the county were in some European colony. Local measures are made matters of bargain and trade. Votes are obtained for a particular measure by a promise of votes for another particular measure relating to another part of the Territory. One representative knows what the people desire in his particular locality, and if he can get such a measure passed as his people desire, he will vote for anything and everything else to accomplish that end. That is especially the case with new members—and the Legislature is generally made up of a majority of new members. Older members make them believe that they cannot get their little local measures through unless they vote for certain other measures.

Now I say, if we are going to put this matter into the Constitution at all, we should insert a provision taking the matter out of the hands of the Legislature entirely, and giving it to the people, and to the servants of the people in their respective counties.

Mr. STANNARD. I would not be understood to say that I am in favor of putting this matter wholly into the hands of the Legislature, but I do say that we should have something like permanency in our affairs. I do object to leaving this thing open, so that every session of the Legislature shall be taken up with considering this matter of the location of county seats. I am in favor of leaving this matter with the people, but I am opposed to so leaving it that a few dissatisfied persons in a county, or a few having a town-site they want to improve, shall have it in their power to go the Legislature every year, and log-roll a bill through submitting the question to a vote of the people of the county. I am opposed to subjecting the people of a county to any such hardships. It would require them to turn out every year to vote upon a question which they want settled. Suppose a county seat is located, and the erection of county buildings commenced, what would be the result if this amendment is adopted? Would it not stop the erection of those buildings? Would the people feel like making permanent public improvements? Certainly not? I am willing, in all cases, that a majority of the people should be this judge, but I am opposed to forcing them to vote upon a question of change every year, at the instance of a few persons.

Mr. HAYDEN. I was somewhat amused at the remarks of my good friend (Mr. BALCOMBE) when he first spoke. He said that if the substitute was adopted, it would put the matter entirely into the hands of the Legislature, with some slight exceptions, and that was that it would put it into the hands of the people. Now that is quite an exception, for in fact it would put the matter entirely into the hands of the people for their decision. He speaks of Mower county, the affairs of which the Legislature would not naturally know anything about. But it is natural that the people of Mower county should know whether they desire a change of their county seat or not, and when the question is submitted to a vote of the people, I ask whether they ought not to have the power to decide it? I am desirous that the matter should be left to the people, and that they should have the entire control of it.

Mr. KEMP. I feel some interest in this matter and desire to introduce an amendment to meet my views of the manner in which this matter should be disposed of. Two years ago, by a legislative act, the county seat of Wabashaw County was fixed at Wahashaw; and that is still the county seat, against the wishes of a large majority of the people. There have been no public improvements made there from the fact that no title has yet been acquired to those lands, and it is possible that no title ever will be acquired. The title may be in litigation ten or twenty years. Under those circumstances it will be impossible to continue the county seat there, and to put up proper public buildings. I feel confident that the people would remove the county seat immediately upon the ratification of a Constitution containing a provision similar to the one proposed. It does not however fully meet my views, and therefore I propose to amend by striking out all after the word "designated" in the second line, and insert the following:

"By a majority of the qualified electors of said county, and a majority of the votes of such qualified electors of such county being in favor of such removal, shall have the effect of removing said county seat independent of any legislative action."

Mr. BALCOMBE. That amendment brings up the question whether the Legislature or the County Commissioners or board of Supervisors—whichever it may be—shall provide the time and manner of holding the elections and submitting the question to the people. I am decidedly in favor of having the County Commissioners or Supervisors provide as to the time, manner, and place of voting upon this subject by the people, instead of going to the Legislature, for their action upon the subject. They are better qualified, under all the circumstances, to know the proper time and places, and what the proper manner is in which the people should be called upon to vote upon this matter. I ask gentlemen which would be the best body to determine those matters? Should it not be determined by the immediate servants of the people? I say most certainly, it should.

Mr. KING. Who believes that we want any better provision than the article as it now stands? I do not, and consequently I shall vote against the substitute and the amendment. In the first place it gives to the Supervisors the right to designate the place of the proposed removal, and then it it gives a majority of the people the right to fix the county seat at the place designated by the Supervisors. A fairer proposition we do not want.

Mr. BALCOMBE. If the committee vote down the amendment, I will offer an amendment to give the power to designate the place to a majority of the Supervisors, as also the manner of holding the elections.

The amendment was rejected.

The substitute was also rejected.

Mr. BALCOMBE. I now move to amend the section so that it shall read as follows:

"SEC. 2. No county seat shall be removed until the point to which it is proposed be removed shall be designated by a majority of the board of Supervisors of the county, and a majority of the electors of the county voting thereon, shall have voted in favor of the removal of the county seat to the proposed location, in such manner as shall be prescribed by the board of Supervisors."

Mr. MANTOR. I hope the amendment will not be adopted. I am unwilling to place in the hands of the Supervisors, or any other class of men, the right to designate any single point in the county, for a county seat. I prefer to leave the whole matter to the Legislature.

Mr. COLBURN. I move to amend the amendment by inserting after the word "Supervisors" wherever it occurs, the words "or Commissioners." My object is to leave the counties themselves to decide whether they will be governed by a board of Supervisors, or a board of Commissioners. I am not myself in favor of the Supervisor system, and especially am I unwilling to place such a system upon any county without their consent. I think it may be so arranged as to leave each county to say what system they will adopt. If that matter, however, is to be decided by us, my impression is that we should adopt a system of county government by Commissioners, rather than by Supervisors. This report provides that each organized township shall have one Supervisor, and those Supervisors are to constitute the county board. Now in the county in which I reside there are twenty-four townships, and the board would consist of twenty-four Supervisors—a complete legislative body. It would not be possible for them to transact business except under the rules of a legislative body. I do not believe the voters of that county desire any such system. I am satisfied that they will be opposed to it, and for that reason I am opposed to the amendment. I want it to be put in such a shape, that we can provide hereafter that the counties may have their choice of a system of county government.

Mr. KING. It is much better to put the disposition of the county seats into the hands of a board of twenty-four, rather than three, because this has become such a speculative age, that you can buy a man as cheap as a mule; and if you have a board of only three, you have only three mules to buy, which is more easy than to buy twenty-four. The expenses of a county is a thing the people are going to look at, and the voting upon the location of a county seat every year is going to cost more than you calculate upon. How much is it going to cost to build a court house and jail? Let them be built, and then buy up three mules to say that the county seat shall be

removed, and by that time the people will have their eyes open. The section cannot be bettered, if you legislate upon it until next Saturday.

Mr. COLBURN. The gentleman must have misunderstood the purport of my amendment. It is not that three county commissioners shall have the power to remove the county seat, but that they shall designate the place to which the removal shall be made, and the manner and the place of voting upon that question. I am decidedly opposed to the section reported by the committee because it enables one-third of the supervisors to control the action of a majority of the people. Or rather, its operation will be to prevent a majority of the people, wishing it, to have any action upon the subject, whatever. I am in favor of the amendment of the gentleman from Winona, if the section is to remain substantially as it is. At all times it might probably be anticipated that one-third out of a board of twenty-four supervisors, would favor the location of the county seat where it is already established, while a majority of the people may desire to remove it, and yet would never have an opportunity, under that system, of expressing that desire. The section operates as a veto power, in advance, on the people.

Mr. KEMP. I will read, for information, an amendment I propose to offer, when it is in order, which I think will accomplish that desire. It is to strike out all after the word "designated" and insert—

"By a majority of the board of supervisors of the county; and a majority of the voters of said county, voting in favor of said removal, shall have the effect of removing the county seat as prescribed by the board of supervisors."

Under such a provision a majority vote of the board of supervisors will place the question before the people, so that their wishes can be known on the subject.

Mr. BALCOMBE. That is the same as my amendment.

Mr. KEMP. Not exactly.

The question was then taken on Mr. COLBURN's amendment, and it was not agreed to.

The amendment offered by Mr. BALCOMBE was then agreed to.

Mr. CLEGHORN. I move to amend the section as it now stands, by inserting after the word "thereon," the words "at the next general election." The object of the amendment is to prevent the board of supervisors from putting the county to the expense of a special election on the question of removing the county seat.

Mr. STANNARD. If it is absolutely necessary to remove the county seat, the sooner it is done the better. The commissioners or supervisors will have the interest of the county at heart, and they will certainly designate that time, unless the people demand an election at an earlier period.

Mr. FOSTER. I think we can safely trust the supervisors to fix the time.

Mr. COGGSWELL. I offer the following substitute for the whole section:

"Counties already existing, and those which may hereafter be created, are municipal corporations, established for the purpose of the better carrying out those great objects for which all governments, great or small, powerful or weak, were instituted, to-wit: For the better protection of the people in their lives, their liberties, and their property; and not for the purpose of enriching or impoverishing the inhabitants of any particular locality—and in the establishment or removal of county seats the convenience and wishes of the people of said county should be consulted, and not the pecuniary gain or loss of any particular locality. And in all cases when the inhabitants of any part or portion of any county desire to be disconnected therefrom, and added to any other county, the same shall not be done without first obtaining the consent of a majority of the votes of both counties affected thereby. And the Legislature shall pass such general or special laws, from time to time as will best carry into effect the foregoing principles."

I wish simply to say, Mr. CHAIRMAN, that we have adopted, I believe, a certain clause in our Bill of Rights, which requires us to go back from time to time to fundamental principles, and it is a kind of song sung here, to a certain extent, that in framing our Constitution we should lay down certain fundamental principles only, and not undertake to enter into the minutia of legislation. And for the purpose of carrying out that idea in regard to county seats, their removal, and the dismemberment of counties, I have offered the amendment.

The amendment was rejected.

SEC. 4. The Legislature may organize any city into a separate county when it has attained a population of twenty thousand inhabitants, without

reference to geographical extent, when a majority of the electors of a county in which such city may be situated, voting thereon shall be in favor of a separate organization. Cities shall have such representation in the board of supervisors of the counties in which they are situated as the Legislature may direct."

Mr. COLBURN. I move to amend section four by striking out all after the word "organization."

Mr. FOLSOM. I move to strike out the whole section.

Mr. COLBURN. I accept of that amendment in the place of mine.

Mr. FOSTER. I am in favor of that amendment. The gentleman who moved the first amendment wanted to stop at the word "organization," and strike out the words "cities shall have such representation in the "board of supervisors of the counties in which "they are situated, as the Legislature may "direct." Some provision of that kind is probably necessary. A large population may be gathered into one city, and yet they might really constitute but one voting precinct, and consequently would not have a proportional representation in the board of supervisors.

Mr. FOLSOM. I do not see any necessity of having such a provision in the Constitution at all. If we do not insert such a clause, the matter will be in the hands of the Legislature.

Mr. WILSON. I hope we shall have some such provision somewhere.

Mr. FOSTER. I would call the gentleman's attention to section five. We can insert that provision there.

Mr. WILSON. Section five prescribes that a board of supervisors, consisting of one from each organized township, shall be established in each county with such powers as shall be prescribed by law. I think it is unfair to say that a township having twenty thousand inhabitants shall have a like representation as a township having a hundred thousand inhabitants.

Mr. ALDRICH. In Illinois the cities are divided into townships, each of which elects a supervisor. Chicago is divided into eight or ten townships. That might be done here. The object is to allow the cities to have a representation in the board in proportion to their population.

The section was stricken out.

"SEC. 5. A board of supervisors, consisting of one from each organized township, shall be established in each county with such power as shall be prescribed by law."

Mr. NORTH. I move to amend section five by adding thereto the words "cities shall "have such representation in the board of "supervisors of the counties in which they "are situated as the Legislature shall direct."

MR. STANNARD. I would suggest to the gentleman that he should include both cities and incorporated towns.

Mr. NORTH. It is necessary to have some provision of this kind because one supervisor from a large city, would not give it a just representation. It has been customary in New York to have one supervisor from each ward of a city.

Mr. STANNARD. But there may be places having a large population, which would not wish a city charter, preferring to remain under their town charter. I want the amendment to include such places.

Mr. NORTH. I accept that as a modification of my amendment. The section thus amended will cover all the ground that is desired. I hope the three following sections will be stricken out. They define the powers of the board of supervisors—a matter which should be left to the Legislature.

Mr. FOSTER. In looking over the report I cannot find anything which provides how the first precincts are to be made; by whom, and how the first board of supervisors are to be chosen.

Mr. BALCOMBE. The schedule will provide for that. I would inquire of the gentleman from Rice county, (Mr. NORTH) what effect his amendment would have in one respect. The question arises whether the Legislature at any time when it sees fit hereafter, can divide up the cities into a certain number of organized townships, and give each of them a representation on the board of supervisors, or whether it is to be done by a general law? For instance, a general law which may leave that matter entirely with the board of supervisors of the counties in which they are situated? If the effect of the amendment is to leave the matter uncertain, or to leave the Legislature free at any time to organize new townships within the city limits, I should be opposed to the amendment. I think the Legislature should not have the

power to interfere with city organizations to that extent.

Mr. NORTH. I do not see how we can very well avoid entrusting that matter somewhat with the Legislature. The city charters themselves generally provide for the number of wards in each city, and it has been customary in some States to allow each ward in a city to have a supervisor. Cities are incorporated with a larger or smaller number of wards, not always in proportion to population, and to lay down a general rule that each ward should have a supervisor, would allow the cities too many in some instances, and too few in others. It is a matter of legislation. If we lay down a general rule, it will surely operate unequally, and if we leave it with the Legislature, it cannot operate more than unequally.

Mr. ALDRICH. These township organizations are something new to me. But I suppose the gentleman from Rice county, coming from New York, knows how the system works. In Illinois the system is different. Chicago, for instance, is entitled to a certain representation in the board, but I do not know whether she is divided into wards or not. She is divided into townships.

Mr. McKUNE. In Illinois each town and city has at least one supervisor, and after they reach a population of eight hundred they are entitled to one additional supervisor for each additional eight hundred inhabitants.

Mr. ALDRICH. I was about to state that fact. Some townships have half-a-dozen supervisors in order to make them equal with other towns in the county. The counties are authorized to adopt a township organization by a majority vote of the people, and I should think that about one half of the counties of the State have adopted such an organization. The others have not, and are still governed by a board of county commissioners. The matter is left to them to them to decide, and I think that would be the best course to adopt here.

It seems to me that it would be wrong to make a township organization obligatory upon the people, as this section does. It reads—

"A board of supervisors, consisting of one from each organized township, shall be established in each county,"

—Thus making it binding upon them. I should prefer a general law, by the Legislature, giving to the people of each county the privilege of adopting township organizations or not, as they see fit.

Mr. BALCOMBE. I am decidedly opposed to the establishment of a mixed system, as suggested by the gentleman from Hennepin county. I want either the one or the other, out and out. Either the precinct and county commissioner system, or the supervisor system. I think uniformity is desirable.

Again, I would suggest an amendment to the phraseology of the section so that it shal read—

—"Shall be established with such powers as shall be prescribed by a general law."

I do not know as I can express my idea about this matter fully. I wish to have this matter of representation of cities in the board of supervisors prescribed by a general law, and not subject to the fitful action of each Legislature that assembles. If the language of the amendment proposed conveys the idea that the representation of cities shall depend upon a general law, which shall work the same in reference to one city as another, I am in favor of the amendment. But if it can be construed in such a manner as to allow the Legislature one year to give to St. Paul, for instance, six supervisors, and the next year, through lobby influence, double it up to twelve, when perhaps the inhabitants have not increased in numbers, I am opposed to it.

I throw out these suggestions to see whether it is thought by the mover, and others sustaining this amendment, that the language he employs will apply to all cities equally, and that a general law must be framed by which all shall be governed; or whether the matter is subject to special legislation.

Mr. NORTH. I said before that I was entirely willing to leave the matter to special legislation, and I think the clause I propose leaves it with the Legislature to act either by general or special laws.

Mr. BALCOMBE. Well I am opposed to leaving in in that way.

The amendment offered by Mr. NORTH was then adopted.

Mr. COLBURN. I now move to strike out section five, as amended. It does seem to me that the remarks of the gentleman from

Hennepin county (Mr. ALDRICH,) are very just, in reference to leaving it to the people of each county to determine their kind of county government; and the gentleman from Winona (Mr. BALCOMBE,) gave no reason why he did not approve of that. He simply stated that he was opposed to any mixed system. It is a fact that in some of the counties, a majority of the voters are New England people, who are unaccustomed to this system of township supervisorship; and since they came here, they have been under a system of commissioners, as they were in New England. I am satisfied that this revolution in the system of county government, which this section proposes to make, would be distasteful to the people of those counties. It may be, that in other counties, a majority of the people may be from the Western States, where the system of supervisorship has been generally adopted. In those counties, they would undoubtedly be in favor of that system. I do think the proposed system would be repugnant to the class of counties I first mentioned. In the course of time they might choose that system; but at the present time they would not, and I think it seriously objectionable to compel them to adopt it. It seems to me that a section might be introduced here providing that the counties might select between the two systems.

And I believe further, that in every county, the whole people of that county should have an equal voice in the election of the men who are to govern the county. Under this supervisorship system, they might unite several townships into one. In one section of the county perhaps five or six townships may be united and they have a population of not more than five hundred persons; in another section, two towns may be united, and they have a population of one thousand; and yet, if this system is adopted, a small township of five hundred inhabitants has as much power, as one with one thousand inhabitants or more. Now these one thousand people pay more taxes than the five hundred, and yet the supervisor of the small township has the same voice in expending the fund, as the one who represents a larger amount of tax-payers. It seems to me impossible to regulate that system so as to make it equal and just to all the people of the county. If the supervisor system is to be adopted, I think they should all be voted for upon a general ticket, and by the whole county. But the more serious difficulty of deciding upon and arranging that system now, is, that the counties are not prepared for such a change. I prefer to have the whole matter stricken out, rather than do that. I would permit the present commissioner system to prevail until it is changed by the Legislature.

Mr. FOLSOM. I move to amend by striking out all after the third section, and inserting the following:

"SEC. 3. The Legislature shall, at its first session after the adoption of this Constitution, provide for the establishing of county and township organizations."

Mr. LOWE. I hope that amendment will prevail. I have listened to this discussion with considerable interest, and have been endeavoring to make up my mind upon this matter; but it seems to me that we are getting into deep water, upon a difficult question. The trouble is that the subject matter properly belongs to a Legislative Assembly, rather than to a Constitutional Convention. I feel myself incompetent to decide upon the various points proposed, and I do not think I should be called upon to decide here. The substitute offered by my colleague is all I ought to be called to vote upon, and I hope I shall not be compelled to vote upon these various mooted points—mooted even in this Convention. The suggestions offered by the gentleman from Hennepin county seemed to me valuable and weighty, and they ought to be considered. This system should be matured, if we are going to adopt it.

Mr. FOLSOM. My motion was to strike out all after section three.

Mr. COLBURN. As that meets my views, I withdraw my amendment.

Mr. FOLSOM. If the motion is agreed to, the effect will be to throw us back upon our present system of government, until the Legislature shall provide a system of future government. I think our election for officers this fall will have to be held under the present Territorial laws. In the first place, we do not know as the Constitution will be ratified by the people; and if it is not, we shall stand just as we do now. It leaves our present system of government to stand until the Legislature provides for a change.

Mr. SECOMBE. I am in favor of the motion of the gentleman from Chisago (Mr. FOLSOM,) to a certain extent, but I am not to the full extent to which it goes. I am opposed to a system of County Commissioners, and equally opposed to the system of a Board of Supervisors. The gentleman from Fillmore county (Mr. COLBURN,) stated that the County Commissioner system was a New England system. I do not so understand it. In New Hampshire, which is the native State of that gentleman, as well as myself, the system has been a township system, wherein there were elected officers called select-men, and the whole affairs of the town were conducted by those select-men. There were no county officers that had anything to do with the local affairs of the several towns; and formerly whatever county affairs there were to be attended to—such as paying the expenses of the courts and the expenses of the county poor—were performed by what were called side-judges—two county judges to be elected in each county to sit by the side of the presiding judge. They had no duties to perform there, and they attended to such county affairs as were strictly such. Now that was a system I was in favor of; and I would have in this State, township organizations, and have the local affairs of the townships conducted solely by the townships themselves. I would have officers elected in each township—call them commissioners, select-men, or any other name—to perform the business pertaining to each township. I would have the roads and highway of each township, constructed by itself. I would have the poor which belong to each township, supported by that township. Then it would be necessary, of course, to have some officers to transact the business of the county—business which properly belongs to the whole county, such as providing for the payment of the expenses of holding courts, the expenses of county officers, and other matters of general interest throughout the county.

Now while I am in favor of leaving that matter with the Legislature, I am not in favor of striking out section nine of this report, which provides for county officers. Section nine is as follows:

"SEC. 9. In each organized county there shall be a Sheriff, a County Clerk, a County Treasurer, a Register of Deeds, a Prosecuting Attorney, a Superintendent of Common Schools, a County Surveyor, and a Coroner, chosen by the electors thereof once in two years, and as often as vacancies shall happen, whose powers and duties shall be prescribed by law. The Board of Supervisors in any county may unite the offices of County Clerk and Register of Deeds in one office or disconnect the same."

Those are offices that will be required, whatever subdivisions may be made of each county; and if it is the effect of this amendment to exclude the idea of specifying what county officers there shall be, I shall be opposed to it.

Mr. COLBURN. I was probably mistaken in regard to the New England system prevailing in New Hampshire. I understand the gentleman is in favor of the New Hampshire system. Now I ask him if he is in favor of electing two dummy judges to sit by the side of the presiding judge?

Mr. SECOMBE. I am not; but I am in favor of some county board to attend to affairs common to the whole county.

Mr. COLBURN. I am in favor of that system of township organization which exists in Massachusetts, and in most of the New England States. There are some variations as to county government, but in no case have they a board of Supervisors constituted as this report proposes to constitute them.

Mr. FOLSOM. I do not see any necessity for retaining section nine in the report. Our present Territorial laws will be in force until this Constitution is adopted; and in the schedule we shall probably insert a clause providing that all laws of the Territory of Minnesota not repugnant to this Constitution shall remain in force until repealed. Then the Legislature can provide for these county officers, and I see no necessity for inserting it here.

Mr. HAYDEN. I am opposed to striking out the ninth section. I heartily agree with my friend from Hennepin, (Mr. SECOMBE) in almost all he has said. I am a true born Yankee, and have not lost all the Yankee yet. I believe there are many things in the township organizations of New England, preferable to any other system I have any knowledge of. I think it important that there should be a clause in the Constitution prescribing what county officers should be elected. And further than that, I would have; instead of a

board of Supervisors, a board of county Commissioners, whose duty it should be to attend to such business as the side judges performed in New Hampshire. It would save a great deal of expense in many ways, to have such a board of Commissioners.

The question was taken on Mr. FOLSOM's amendment, and it was agreed to; and then on motion of Mr. THOMPSON, the committee rose and reported the article as amended to the Convention, with a recommendation that the amendments be concurred in.

On motion of Mr. CLEGHORN, (at twelve o'clock) the Convention took a recess until half past two o'clock.

AFTERNOON SESSION.

The Convention resumed its session at half past two o'clock.

COUNTY AND TOWNSHIP ORGANIZATIONS.

The Convention resumed the consideration of the report upon the county and township organizations, the pending question being on concurring in the amendments recommended by the committee of the Whole.

Mr. COLBURN. I would enquire if it would be in order at this time to offer a substitute for the whole report?

The PRESIDENT. In the opinion of the Chair it would be.

Mr. COLBURN. I then offer the following substitute for the whole report:

"The Legislature, at the first session, shall provide by law for county and township organizations; and every county or township when organized shall be a body corporate, and all suits for or against such county or township, shall be in the name thereof."

My object in offering this substitute is to get rid of this system of legislation on the subject, in the Constitution. A question, also, has arisen in this debate upon which a great diversity of opinion prevails among the members of this Convention, and in regard to which there will be a great diversity of views among the people. Now I prefer, for that reason, if for no other, that it should be left to the Legislature, rather than settle it in this Constitution.

Mr. GALBRAITH. I do not object to the substitute to the whole report, as far as it goes. But there are things contained in this report which are not legislative at all, and I do hope to see a part of this report, at least, adopted. This matter of establishing new counties is a source of the deepest corruption in this Territory. The same has been true, to a greater or less extent, in all the States, and the older States are constantly amending their Constitutions in that particular. The object of those amendments is to put an end to this interminable manufacturing of new counties. Every man in the Territory who builds up a new town expects that there is to be a new county to surround it; and the past history of our Legislature will bear one out in saying, that it has been literally infested every session by a set of men crying out for new counties. Every general bill for the general welfare of the Territory has had, hitched to it, from half a dozen to a dozen bills for new counties. Members' constituents importune them for new counties, and representatives are tied up to a log-rolling system which they cannot break away from without offending their constituents. Every man knows that that lobby has been crowded by men affected with a perfect itching for new counties, and the cry continually is "give" "give." The new States, and the older States, have come to the conclusion that there is no greater source of corruption in legislation than this forming of new counties. Now it is not legislation to stop that matter here in the Constitution, and declare that it shall not be done without the consent of the people. As our laws are at present, the Legislature can manufacture new counties at pleasure. Take this Territory now, as a general thing, it is cut up into little pea patches, which have no influence one way or the other. I hope the provisions of this section will not all be stricken out. I have an amendment which I wish to offer as an additional section to the proposed substitute, and I hope it will be accepted by the mover. It is as follows:

"No county shall be divided by a line cutting off more than one tenth of the population, either to form a new county or otherwise, without the express consent of such county, by a vote of the electors thereof; nor shall any new county be established containing less than four hundred square miles."

Mr. COLBURN. I do not accept it as a part of my substitute, not so much that I am opposed to it, as that I fear if it is attached to the substitute it will kill the substitute itself. For that reason I shall have to vote

against it, as an amendment to the substitute, but after the substitute is adopted, I will vote for the amendment.

Mr. GALBRAITH. The reason why I urge this amendment is, that the amendment of the gentlemen from Chisago (Mr. FOLSOM) which was adopted in committee of the Whole, is not sufficiently definite. There are cases where the representatives of two counties in the Legislature might agree that a certain portion of one county should be cut off and attached to another county for the mutual convenience of each. But my amendment provides that not more than one-tenth of the population of any county shall be cut off without the assent of the county. It may be convenient in some cases, where a small strip is desired to be taken from one county and attached to another, to allow the Legislature to do it, if the representatives of the respective counties agree to it, but that right should not be extended to any considerable portion of the county. It is no more than fair that the people should decide such matters for themselves. It allows a sufficient margin to the Legislature for straightening lines, when the inhabitants petition for it. In such cases there is no necessity for a vote of the people, because in many cases the land might not be worth the expenses of an election. The plan I have proposed has been adopted in some of the older States.

Again, as to the matter of limiting the size of our counties. It is the general idea, that counties should not be formed below a certain size. Twelve townships would be four hundred and thirty-two square miles. I think that is sufficiently small. This interminable making of small counties by the Legislature, is injurious to the people, and the Legislature should not be allowed to do it. We all know that a county was organized last winter, which was not large enough for a good sized farm. Do you suppose that that bill passed by any fair means? Not at all. Shall our State be cut up into small portions, and the people subjected to pay immense taxes for the gratification of a few individuals? It is usual now, in framing Constitutions, to put some restrictions upon the Legislature in making new counties. Such a restriction would be a blessing to the Legislature. It would prevent their being dragged around and button-holed by a set of men, importuning them to make new counties for their benefit. And at home, too, it would remove that bitterness of feeling which would not otherwise exist. The constant agitation of the removal of county seats has a bad effect upon our county organizations. I know that in my own county—the smallest one in the Territory except one—men living in one corner of the county have actually refused to pay their taxes, simply out of this personal local feeling. Now this local feeling would never arise, if the Constitution should throw a guard around this thing. I hope we shall so act here as to prevent a recurrence of those unfortunate and disgraceful affairs which have disgraced, not only the Legislature of the Territory of Minnesota, but of other States and Territories. Remove this subject as far as possible from the Legislature, and do not allow our legislators to be driven into a system of log-rolling to carry through bills, for the organization of counties, which have no merit in them whatever. Whenever it is necessary to cut up a county, the people will say so.

Mr. COLBURN. I have no objection to the amendment, if offered by itself. The object of my substitute was simply to get rid of those provisions upon which there was so much discussion, and such diversity of opinion this forenoon. That was as to the mode of government and control of counties. If the gentleman will withdraw his amendment, and allow the vote to be first taken upon my substitute, and then offer his substitute, I will vote for it.

Mr. WILSON. I hope the gentleman will look carefully at this substitute. It will leave us at sea, just as we were before, at the mercy of town site makers. We know how they have done heretofore, and I hope we shall legislate for the future with the past in our minds.

Mr. COLBURN. The gentleman will bear in mind that an amendment is to be offered to fix that thing.

Mr. WILSON. The amendment of the gentleman from Scott county (Mr. GALBRAITH) does not come up to near what I want.

Mr. GALBRAITH. I will withhold my amendment for the present.

Mr. SECOMBE. I hope the substitute will prevail, but only for the purpose of getting a chance to offer an additional section which will, perhaps, meet gentlemen's wishes.

The substitute was then adopted.

Mr. GALBRAITH. I now offer the following as an additional section:

"No county shall be divided by a line cutting off more than one-tenth of the population, either to form a new county or otherwise, without the express consent of such county, by a vote of the electors thereof; nor shall any new county be established containing less than four hundred square miles."

Mr. SECOMBE. I am opposed to the section proposed to be added by the gentleman from Scott county. I am satisfied that we cannot fix any arbitrary rule upon this subject, that will be just and equitable. The gentleman from Scott county referred to the provisions of other States. The condition of things in those States is vastly different from what it is in the Territory of Minnesota at the present time. It is well known that the legislation heretofore had in our Territory upon this subject, has been legislation for speculators, and for particular town sites; that counties have been formed, not with reference to what will be for the general good hereafter, but with reference to what was the general or particular good at the time those counties were formed. We have been launched upon a sea of legislation, which has already left our counties in a very poor shape. I am satisfied that the principle the gentleman contends for, although it would answer very well to suit, perhaps, the majority of voters in the county the gentleman comes from, will, according to his own admission, merely prevent a minority of the people in his or any other county from any longer grumbling or trying to help themselves. A portion of the citizens in the county of Scott, which I believe in size is next to the smallest in the whole Territory, together with portions of the citizens of other counties cornering into that, have been besetting the Legislature, for two years, to form a new county; and in the course of proceedings, various propositions have been made. It has been proposed on the one side that the county of Jefferson—the county desired to be formed—should be established, subject to a vote to be taken by the votes of the county of Scott and the other counties from which the proposed county of Jefferson was to be carved out; and if a majority of the voters in all those counties should be in favor of it, the new county of Jefferson should be erected. On the other hand, it has been proposed by the friends of Jefferson county, that a vote should be taken of that portion of those counties which it was desired should be erected into the new county of Jefferson; and if a majority of those people were in favor of the establishment of that new county, it should be erected. Now neither of those plans is just or equitable. A majority of the inhabitants of Scott and the other counties are opposed to cutting off any portion of their counties, and they would vote against it. Consequently, under the rule of action proposed by the gentleman, the new county could not be established. On the other hand, the voters in the proposed county of Jefferson would vote by a large majority that the county should be established. If that rule prevails, the majority of the voters of all the counties might lose their property against their will. And yet, I can conceive of cases where it would be necessary, in all justness, fairness, and equity, that the county of Jefferson, or some other county in like circumstances, should be erected in opposition even to the will of a majority of the counties from which it is proposed to be taken.

I alluded, this morning, to the present condition of the county of Ramsey, a portion of which is separated from it entirely by two intervening counties. Nobody would say but what it was just and equitable that that portion situated a hundred and fifty miles away from the other portion, should be erected into a county by itself. But if we give to the whole people of the county the power to refuse to make it such, there is no safety to the rights of the minority of the county living that distance away.

Therefore, I am of opinion that it is impossible to adopt a rule that in all cases will be an equitable rule; and, consequently, I am opposed to the amendment, and I am opposed to inserting anything into the Constitution upon that subject.

The question was then taken, and the additional section was not agreed to.

Mr. SECOMBE submitted the following, as an additional section:

"No County Seat shall be established or removed, except by the vote of a majority of the legal voters of the county, which vote shall be taken in such manner as shall be prescribed by a general law."

The amendment was agreed to.

Mr. GALBRAITH. I now offer as an additional section, the amendment which was adopted in Committee of the Whole this morning, viz:

"No organized county shall be divided or have any part stricken therefrom without submitting the question to a vote of the electors of the county or counties to be directly affected or dismembered —and unless a majority of all the votes cast shall be in favor of the same."

Mr. VAUGHN. I offer the following as a substitute for the additional section:

"No new county shall be formed or established by the Legislature of a less area than four hundred square miles without submitting the question to a vote of the electors of the county or counties to be affected thereby. Nor shall any organized county be dismembered unless a majority of the legal voters of such dismembered portion shall approve the same."

Mr. GALBRAITH. Establish such a rule as that and you put it in the power of every heartless speculator, seeking to build up a paper town site, to come into the Halls of the Legislature, for the purpose of getting a new county. Say that the dismembered territory shall vote, and any paper town can vote, and decide that it shall be a new county, and be the county seat. It is ridiculous upon the face of it—simply ridiculous. Now a county is a municipal organization, and the people living in it have a perfect control over it, and it would be just as proper to say that the people living in South Carolina may go out of the Union upon voting to do so, as to say that the people living within a particular portion of a county, may go out of that county at their own will and pleasure, by voting to do so against the will of the whole county. A county is created for the benefit of the whole people of that county, and without the assent of a majority of the whole people, a county never should be dismembered and cut up into atoms to suit the whims of a few men, and to put money into this and that man's pocket.

Sir, the history of the past shows that it is time that we should put such a provision as I have proposed into our Constitution, and stop this log-rolling all over the country. This legislation about counties has been a nuisance to the whole Territory, and many States have been driven, from stern necessity, to put provisions into their Constitutions prohibiting this thing of coming to the Legislature to get new counties organized, for the purpose of enabling this or that man to sell their town sites. Have not we had experience enough in this matter already? I do not refer to my own county particularly. Troubles exist there yet. But do not troubles exist in other counties? Is there not a perfect mania for making new counties through the whole Territory? As long as the power is in the Legislature, men will beset them for the establishment of new counties. It will be in the future as it has been in the past, and you can hardly pass in the Legislature a bill for any general object, but there will be tacked to it bills establishing new counties, or establishing county seats at places never dreamed or heard of before. It has been done, and I have seen it done. Now is it not well to put a stop to such things, while we have it in our power?

But there should be a limit to the cutting up of counties. Small counties must have as good public buildings, the same offices and the same machinery that large counties have, and it costs as much to maintain a county organization. As a financial question, then, it is no more than proper that this Constitutional Convention should take the precedents established by the older States which have taken this matter into consideration, and put some restraint upon the Legislature in regard to the manufacture of new counties. The Legislature of this Territory, following in the footsteps of the Legislatures of some of the States, has become a machine for the manufacture of new counties—a patent right machine. Get up a bill in the Legislature on a matter which interests the whole people, and the first you know it is covered all over with bills for the establishment of new counties, and you cannot pass it without passing at the same time those incumbrances.

Why then will we stand here and vote down every proposition to guard the rights of the people in this matter. A majority of the people all over the Territory are opposed to cutting up and dismembering their counties. Put it to a vote to-day, and I say that ninety-nine out of a hundred of the people would

vote in favor of such a restriction, and only the interest of those paper town sites would be opposed to it. Wherever there is a necessity for erecting a new county out of a large one, the people of the county will approve of it. But if a majority of the people, whose property it is, do not see fit to part with it, who will say that they shall. A majority should rule in this matter as in all others. If any gentleman has any proposition which will more effectually remedy this wrong, I will vote for it.

Mr. NORTH. I would like to make a proposition, and that is to leave the whole matter to the Legislature, and I am more satisfied now that that is the proper course than I was before the matter was discussed. I wondered for some time how I should explain the enthusiasm of the gentlemen from Scott county, but I happened to remember Jefferson county, and all my trouble vanished. We ought to remember that we are not making a Constitution for Scott county alone. Jefferson county is not the only county which should be guarded against in this State, and the difficulty is to adopt a rule that shall work well in all cases. While the gentleman has a case which touches his interests and feelings, making him so earnest upon this subject, we have, or had, in our county, a case which operated in the other direction, and if we had had a Constitution in our way containing a provision of this kind, we should never have been relieved until the Constitution was changed. It would have subjected us to great inconvenience—and I do not consider a town of six hundred inhabitants exactly a town on paper. There are necessities which arise for changing county lines, which accrue from injustice done in carving out counties, and it becomes the interest of all to have the change made. There was a mutual wish of some living along the line of Dakotah and Goodhue, to have a change of lines. But let Goodhue vote upon a proposition to give up a part of her Territory, and she would vote against it every time; and so would Dakotah county. And there never can be a change of lines under such a provision as is proposed by the gentleman from Scott county. No general rule can be established which will guard perfectly every man's rights, or every countiy's rights, and I know of no safer way than to leave it to the sound discretion of the Legislature. That is the course pursued in the great State of New York, and in many other eastern States, and no evil results from it. Those matters have settled down into a quiet condition, and when a necessity arises for a new county, they make it, subserving convenience, and doing no evil. I know of no better method for us to pursue. But if we are to establish a rule, do not let us adopt one which will leave the people of one county to control the people of both counties in a matter which the other county should have an equal voice in settling.

Mr. GALBRAITH. Some gentlemen appear very sensitive about matters. I am in favor of this proposition from principle, without any reference whatever to any particular locality. Scott county can take care of herself. That is all I have to say about that. I am interested in that matter, and I have announced my opinion so often, that every gentleman understands it.

I believe that a provision of this kind is for the general good. Take the Constitutions of different States which have recently been established, and gentlemen will see that they put limits upon the power of the Legislature in this matter. Pennsylvania for a time had no provision in her Constitution upon this subject, and the matter got to such a pass that no bill could pass the Legislature, because some new county scheme defeated it. Hence the people petitioned for a change, and last winter they amended their Constitution by just such a provision as I have offered. I look upon it as a sound rule of policy, that this matter should have guards thrown around it in some way. Leave it to the sound discretion of the Legislature! You have had experience of that course already, and you know how it works, and the experience of the State has not been different from ours. The Legislature are not left to their sound discretion. They have their public bills which they wish to carry through, but it is impossible to do it, when twenty or thirty men stand out and say they will not vote for them unless they put their county bills through. That condition is made a *sine qua non* to the passage of public bills. Can we not put a stop to that? I urge it not because I am a representative of Scott county. There

are a number of other counties now interested in this matter—Fillmore county among the rest—and unless we now adopt some provision in regard to this subject, our future State will be forced to it at some future time. One gentleman says our counties are left in a bad position now. Well if we allow it to go on when shall we cure the evil? Is not this the time to cure it?

Mr. COGGSWELL moved that the Convention adjourn.

The motion was not agreed to.

Mr. NORTH. I want to quote one of the provisions of another State, to which the gentleman from Scott county has referred. It is satisfactory to me entirely. The Constitution of Illinois provides—

"There shall be no Territory stricken from any county unless a majority of the voters living in such Territory shall petition for such a division; and no Territory shall be added to any county without the consent of a majority of the voters of the county to which it is proposed to be added."

Mr. WILSON. Let me inform the gentleman from Rice county that the Constitution of Iowa, framed last spring, has a section definite and pointed upon that subject.

A VOICE. It has not been adopted.

Mr. WILSON. I know it has not, but there is no doubt but that it will be. It shows, at any rate, the feeling of the people of that State upon the subject.

Mr. COLBURN. I hope this amendment, as an additional section, will not be adopted by this Convention, and I need offer no other reason than that given by the gentleman from Scott county himself. Adopt the amendment and you immediately array a large portion of the people of this Territory against the Constitution. Why? Because there are a large number of people in this Territory who want new counties created.

The gentleman has referred to Fillmore county. I do not doubt that there are a large number of people in Fillmore county who desire that the west part of the county should be set off as a new county with the east part of Mower county. Now let this proposition be adopted and you array the balance of the citizens of Fillmore county against the Constitution, because they will be deprived of their just rights in that matter. They will be dismembered by a portion of their county being taken off, which helps to pay the taxes of that county, and that too without their having any voice in the matter, whatever. It will operate in the same way in other portions of the Territory. On the other hand, adopt the amendment of the gentleman from Scott county, and you will array against the Constitution, that portion of the people living in the west part of Fillmore county, and the east part of Mower county. You cannot adopt either proposition without that consequence following. The people feel deeply upon this subject, as deeply as the gentleman from Scott county who offered one of the pending amendments. I want to avoid coming in conflict with that feeling. If this matter is to be decided upon its merits, let it be decided by the Legislature, and not by a Constitutional Convention. If representatives from Fillmore county come into the Legislature, they will be arrayed against each other upon that question; and both sides will be discussed, and then if the Legislature, after hearing both sides of the argument, see fit to create a new county, let it be done.

It is said that bills will be log-rolled through. You cannot prevent that by any thing you may put into the Constitution. If you prevent it upon this matter, you leave other matters open. Every Legislative body is affected with that failing more or less. This trafficking for votes in legislative bodies is common, and customary, but because it is customary, is it any reason why we should insert such a provision in the Constitution? I trust that both the amendment and substitute will be voted down.

The question was then taken on Mr. VAUGHN'S substitute, and it was rejected.

The question recurred on Mr. GALBRAITH,S amendment.

Mr. WILSON. This amendment was adopted in committee this morning, but I am afraid I see a change in the votes from what they were in the morning, but I cannot see why. Who has not noticed the action of the Legislature upon this subject? Sitting in my office at home last winter, it was amusing to hear the schemes which were laid, and the arrangements which were made to get certain matters of this kind through the Legislature. "Here," says one man, "I am going to lay "out a town, and I am going up to the Le- "gislature to have a piece cut off of this county

"and a piece off of that county and make a "new county, and then I will sell off my town, "and make a fortune out of it." He was going to give so much to this man in the Legislature, and so much to that man, and those men would have interest enough in it to put it through the Legislature.

True it looks like viliainy run to seed. It is imposition of the vilest sort, but it is done under the guise of speculation, and though I laughed at it in my office at home, I cannot here, under the sanction of my oath. The man who can get up here and say that the Legislature will hereafter do what is right in this matter, must have a stronger belief in the honesty of the Legislature than I have. When I see a man do wrong again and again, I believe he will continue to do so, and the same rule holds to the Legislature. I want to place this matter out of their reach. I do not want to hold out anything as a temptation to the Legislature, for they can go far enough without temptation.

The clause of the Constitution of Illinois, which was read by the gentleman from Rice county, was adopted in 1847. Few knew ten years ago the length to which this thing would be carried, and that is reason enough for that provision. Few knew that county seats would be established where there was not a house. But now, he is no genius who cannot invent such a scheme as that.

We now have it in our power to put a stop to this thing, and why should we not do it? I lay it down as a principle on which I act in every case, that where I know a thing is completely and absolutely right, I vote for it. And that is the light in which I view this matter. I do not care if it does savor of legislation. I shall not be scared by that cry. This is clearly demanded of me, on account of the past action of our Territorial Legislature, and I infer that they will act hereafter as they have heretofore. I think that is a safe mode of judging. What county is safe? Who knows what trades will be made? Who does not know that some representatives are elected with direct reference to some little county seat operation? It is true that all general rules will work some hardships. But look now at the counties of Minnesota, and tell me which is the greatest hardship, to leave them as they are, subject to this system of fraud, by leaving it unrestrained, or an individual case of wrong now and then inflicted by a general rule?

Mr. NORTH. I am glad to hear the gentleman from Winona say that he is going for what he believes is absolutely right upon every case. I hope he will bear that in mind when the suffrage question comes up.

Mr. WILSON. And upon the women's right question.

Mr. NORTH. There are many cases the gentleman is committed on. The gentleman seems to argue this question as though no injustice or hardship is done except by forming new counties, and cutting up the present counties. It strikes me that there are instances where great injustice may be done by not doing something of that sort. I am far from believing that the counties in their present shape are perfect. I am far from thinking that that small county formed last winter, should forever remain in its present form. I think it should be cut up, and cut up so as to take the whole of it and put it into some county where there are more lands. I think there are other counties not perfect in their form. In a county settling as fast as this is, new business towns are springing up, where people go to transact their business and where county seats should be; but if county lines are to remain forever unchanged, men must remain forever subject to the inconvenience of going to other towns to transact their public business. There are portions of counties not much settled as yet, which are remote from the county seats to which they belong, but are nearer to the county seats of other counties, where it would be convenient for the people to go to transact their public business. But submit the question to the vote of the county to which they belong, and what is the result? The county would not allow them to be set off, and they could never get released until doomsday. They would be perpetually subjected to that inconvenience and injustice.

But the gentleman says legislators make bargains for the purpose of cutting up counties and making new towns. Did it never occur to the gentleman that bargains are made upon the other side? and perhaps as numerous as upon that side? I am inclined to think that legislative bodies, when the cases arise, are competent to scrutinize those questions.

I am aware that injustice is sometimes done. I am aware also that injustice would be done if the hands of the legislature were tied so that they could not do what was just when a case comes before them; there are two sides to be considered.

Mr. BILLINGS. As I represent a portion of Fillmore county interested in this subject more than any other, I should do myself and my constituents injustice, did I not express my views upon it. Fillmore county, I trust, will always be one and indivisible. She is large, but none too large. I have not the least fear, that with, or without the restriction, you could muster a respectable minority in that county to favor a division. Hence my opposition to this amendment is not based upon any such fear. But I see quite a feeling amongst us, who represent different sections of the country, and an animated discussion has grown up about the mode of settling the matter. If this subject is so exciting to us, what will be the feeling when we carry home the matter to our constituents? Now shall we apply a rule to-day, which is to apply to all ages to come? Or shall we act for the present and let the future act for itself as circumstances may demand? I am decidedly in favor of voting down everything except the substitute which we have adopted. Wise men will not all have left the Territory when we go home; occasionally, a true man will come here and occupy a seat as a legislator. The gentleman from Winona and myself, honest men, may perchance, creep in by accident, and do our constituents and ourselves justice. I do not believe in total depravity, or that this is the only possible chance when justice can be done to Minnesota. I hope there will be men who will represent the interests of Minnesota, when I am gone, as truly as I would.

Mr. GALBRAITH demanded the yeas and nays.

The yeas and nays were ordered, and the question being taken, it was decided in the negative; yeas sixteen, nays twenty-five; as follows:

Yeas.—Messrs. Anderson, Baldwin, Bartholomew, Coggswell, Eschlie, Galbraith, Harding Hanson, Kemp, McCann, McKune, Messer, Mills, Smith, Watson, Wilson.—16.

Nays.—Messrs. Aldrich, Ayer, Billings, Butler, Colburn, Coombs, Duley, Folsom, Gerrish, Hayden, Hudson, Lyle, Mantor, McClure, North, Phelps, Perkins, Putnam, Peckham, Russell, Stannard, Secombe, Thompson, Vaughn, Sheldon.—25.

So the amendment was not agreed to.

Mr. ALDRICH. Mr. PRESIDENT, I offer the following as an additional section:

SEC. —. No county shall hereafter be created or organized in this State of less territory than four hundred square miles.

Mr. COGGSWELL. Mr. PRESIDENT, I now desire to offer the amendment which I offered in committee of the Whole, as a substitute for that additional section.

This proposition was read as before printed.

Mr. ALDRICH. Mr. PRESIDENT, I do not propose to discuss this matter at all; I would like, for my part, to have something like what I have offered, in the Constitution; and I would like to vote upon that simple proposition.

Mr. BILLINGS. Mr. PRESIDENT, I move the previous question.

Mr. PERKINS. I was going to suggest that the sentiments of the proposition offered by the gentleman from Steele county, had better go into the Bill of Rights.

The main question was ordered, to-wit: the adoption of Mr. COGGSWELL'S substitute; and it was rejected.

The question recurring on Mr. ALDRICH'S amendment, it was also rejected.

Mr. ALDRICH. Mr. PRESIDENT, I have one more amendment—another section, as follows:

SEC. —. No county seat, after having been located by the people thereof, shall be removed or changed oftener than once in ten years, and then by a vote of the people only.

The section was rejected.

Mr. HARDING. Mr. PRESIDENT, I now move that the rules be so far suspended, as to allow this article, as amended, to be referred to the committee on Phraseology.

Mr. THOMPSON. I move to amend that motion, so as to allow the article to be ordered to engrossment, and to be now read the third time and passed. I think we are now through with the amendments.

Mr. COLBURN. Mr. PRESIDENT, I would like to inquire of the Chairman of the committee on Arrangement and Phraseology, as to the progress of their investigations. Several reports have been referred to them.

Mr. McCLURE. It strikes me, that, ac-

cording to our rules, this reference is proposed to be made entirely too soon.

Mr. COLBURN. The motion is to suspend the rules.

Mr. McCLURE. In regard to the gentleman's question, I can not see how we can make the arrangement until we shall get all the reports. Two of the articles which have been referred to our committee have been reported back, and they are now in the hands of the committee on Enrolment.

Mr. THOMPSON'S amendment of the motion was agreed to, and then the motion, as amended, was agreed to.

And accordingly, the article was ordered to be engrossed and read the third time; and it was read the third time and passed.

The Convention then adjourned.

TWENTIETH DAY.

TUESDAY, AUGUST 4th, 1857.

The Convention met at nine o'clock, A. M.

The journal of yesterday was read and approved.

STATE OFFICERS, OTHER THAN EXECUTIVE.

On motion of Mr. CLEGHORN, the Convention resolved into committee of the whole —Mr. CLEGHORN in the Chair, and took up the consideration of the report (No. twelve), embracing an article from the committee on State Officers, other than Executive.

(For report see proceedings of July 31st.)

The report was read by sections for amendment.

The first and second sections were passed without amendment.

"SEC. 3. Whenever a vacancy shall occur in any of the State offices, the Governor shall fill the same by appointment, until the next election of Representatives, by and with the advise and consent of the Senate, if in session."

Mr. BALCOMBE. I would suggest the propriety of striking out the words "until "the next election of Representatives," and inserting some provision for their filling the vacancy during the balance of the term, and until the next election to said offices.

Mr. GALBRAITH. This section is pretty much the same as we find in other Constitutions, referring to the same subject. It seems to me that it is sufficiently definite, and the proposition of the gentleman from Winona does not cover the whole ground. His proposition does not determine whether or not the persons appointed to fill vacancies shall hold their offices for the full term. The idea of the section is, that at the next annual election the vacancies shall be filled for the unexpired term. If that is so then the section is all right as it stands, and I would desire no amendment.

Mr. HAYDEN. I think, taken in connection with the first section, this section conveys that idea. The first section provides that there shall be elected at each general biennial election, certain officers; and this third section conveys the idea that when a vacancy shall occur the first year there shall be an election to fill such vacancy at the next annual election for representatives, instead of waiting until the next biennial election comes round.

Mr. BALCOMBE. I do not understand the purport of the section exactly as the gentleman from Hennepin does. Suppose an election takes place this fall for the State officers holding their office for two years from January. In February one of the State officers might be removed, and the Governor would appoint some one to fill his place. According to the section he would fill that office only until the next election of Representatives, which would be a year from this fall, and not until the January following. I think it should provide that he should hold his office until the next election for said offices.

Mr. HAYDEN. The idea of the gentleman from Winona is that the vacancy will be filled only till the people assemble again for an election. Suppose that in March of the first year there should be a vacancy created. The Governor would then fill the vacancy until the fall election. There would be no regular election for State officers until the year after. Now this section provides that the Governor shall fill the vacancy until the people hold their next election, and when they do so, that they shall have the privilege of selecting a man to fill the vacancy until the next regular election of State officers.

Mr. GALBRAITH. It is implied here, that there shall be an election to fill a vacancy at the next annual election, after the occurrence of the vacancy. But then, how long shall the person so elected hold the office?

Shall it be until the nex biennial election, or shall he hold for the full term of two years?

No amendment was offered and the section was passed over.

"SEC. 4. The Secretary of State, State Treasurer and Auditer shall constitute a board of State Canvassers, to determine the result of all elections for Governor and State officers, and such other officers as may be referred to them."

Mr. GALBRAITH. That section, as it now stands, provides that the same person who may be re-elected—the Secretary of State, State Treasurer, and Auditor—shall canvass the returns of their own election—for they may be re-elected a second time, and third time. To say the least of the propriety of the matter, they are too much interested to canvass the returns of their own election, though I do not exactly see how we shall better it. Gentlemen of the Convention who made this report, have probably considered this matter and I would like to hear from them. It has been a rule in many States that persons eligible to re-election should not be canvassers of the election. If these officers were to canvass votes cast for themselves in a close contest, it would at least subject them to suspicion of wrong. This board of Canvassers is entirely a new thing with me. To say the least about it, men's interests lead them a good ways, and though they may be honest they will be subjected to suspicion under such circumstances.

Mr. COGGSWELL. I move to strike out section four.

Mr. BILLINGS. I hope that sections five and six will be read before the question is taken upon striking out section four.

Sections five and six were read as follows:

"SEC. 5. In case two or more persons have an equal and highest number of votes, for any office, as canvassed by the Board of State Canvassers, the Legislature in joint Convention, shall choose one of said persons to fill such office.

"SEC. 6. When the determination of the Board of State Canvassers is contested, the Legislature, in joint Convention, shall decide which person is elected."

Mr. COGGSWELL. I withdraw my motion, and move to strike out sections four, five and six.

Mr. PERKINS. I hope the motion will not prevail, unless the gentleman can indicate some sufficient reason for it. I do not suppose he makes the motion without reasons, and I should like to hear what they are. A Board of Canvassers is here established, and an appeal provided for from their decision. It appears to me that to let this board canvas the votes in the first instance and determine the result, is proper; and that section six provides a sufficient guarantee against any fraud they might be inclined to perpetrate. I do not see why the matter is not in as good shape as it can be.

Mr. HUDSON. Before I vote to strike out these sections, I want some better way pointed out to accomplish the end they have in view. In Michigan, where I have lived, the returns are made to these officers, and I understand that those returns are always public property, and can be inspected by any one. Sections five and six provide that any persons, who think that wrong or fraud has been committed by these officers, may appeal from their decision. I certainly can see no objection to these provisions.

Mr. GALBRAITH. We have here in this Territory the returns of election made to the Secretary of the Territory. He is directly interested, and I would like to see any gentleman inspect the returns in his office.

Mr. BILLINGS. The idea of the committee was that they could not constitute a Board of State Canvassers, without having them officers of the State, although they might set in judgment upon themselves, they have the returns for all other officers referred to them. We did not propose to go outside of the State organization and appoint persons specially for that purpose, and that only. I have not yet come to the conclusion that I should be warranted in prejudging that those officers would not do their duty. I think we are falling upon very perilous times, when as an objection to everything, we must predicate our arguments upon the almost positive knowledge that persons to whom we entrust State matters, will prove recreant to duty.

This Board of State Canvassers would not canvass the returns of their own election under the Constitution, because, as I have always understood, the Convention will make a special provision for the return and canvass of those votes. If this Board of State Canvassers will prove honest and true, I could have no objection to their sitting and canvassing

he returns of the next election, even if they are candidates; and if they are not true and honest, I trust we shall not re-elect them, and in that case they would not sit upon their own case. But suppose they should; if there were no two persons having an equal and the highest number of votes, there could be no doubt as to who was elected. It is possible to make a false report of the returns when there is not a clear majority for any one person; and if there is not a clear majority, then the Legislature can, under these sections, review the matter. If there is any suspicion that the Board of State Canvassers have not done justice, section six gives the right to the Legislature to contest that canvass. If a better system can be devised than the one which your committee have reported, the committee would gladly vote for it.

Mr. COGGSWELL. I have had but a very few moments to consider this report; but the very moment I read sections four, five and six, it struck me, in the first place, that they savored strongly of legislation, to start with. In the next place, it struck me forcibly that section four was upon the principle of "vote "yourself a farm"—or, "vote yourself into "office."

In regard to sections five and six—and especially six—it seems to me that the Legislature is not the proper tribunal to try cases of contested elections of State officers. So far as their own individual members are concerned, I have no doubt that they are the proper tribunal to decide their own contested election cases. We have already said, in that part and portion of the Constitution which we have already passed upon, that they shall be judges of the qualifications and returns of their own members. But when you come to say that the Legislature shall sit in judgment upon the rights of certain individuals to be Governor, Secretary of State, Auditor, or any office of that kind, it seems to me it is establishing a judicial tribunal which is uncommon. I have not examined other Constitutions upon that subject, but I know that a great many of our Western Constitutions are entirely silent upon that subject, and especially the Constitution of Wisconsin—which we all say is about as good as we can find in any Western State.

My judgment would be to leave this matter entirely to the wisdom of the Legislature, and if they see fit to establish a board of canvassers, composed of these individuals, let them do so. If they can devise a better plan, and can constitute a board of canvassers composed of men who have no personal interest in the result of the election, it would be better, to say the least of it.

The argument that sections of this kind are to be found in some other Constitutions, is not a very weighty one, because if that is to be considered as a weighty argument, my recollection is that we can find many Constitutions, and equal in number, in which nothing is said about this matter.

As I said in the first place, I have not investigated this matter thoroughly, but my impression is that we had better leave this matter entirely to the wisdom of the Legislature.

Mr. GALBRAITH. I am not at all opposed to the motion of the gentleman from Steele county, and I think it might be safely left to the Legislature to establish a board of canvassers. But I will offer the following amendment to section four. Strike out "Auditor" in the first line, and insert "Chief Justice of the Supreme Court." The Judge of the Supreme Court can never sit upon the return of his own election—for I take it, that the oldest judge in commission will always be the Chief Justice—will always be in office, and consequently can never sit upon his own election returns. There will then be at least one conservative element in the board—the presumption is, the most conservative element in the government—a man whose whole reputation depends upon acting fairly in the matter. It would be eminently proper to put such a trust into the hands of the Chief Justice. He could never sit upon his own election, though he might upon that of his colleagues.

Mr. BALCOMBE. Two systems have prevailed in other States in reference to this matter. One has been to make the returns to the speaker of the House of Representatives, or the presiding officer of the Senate. The other has been the course which has been recommended by the committee in this report—that a certain number of State officers should constitute a board of State canvassers, from whose decision an appeal could be taken

to the Legislative Assembly. Of the two, I prefer the system recommended by the committee. If that board should so far prove recreant to their duty as to outstrip the bounds of right and justice, any one complaining of their decision, can appeal to a higher tribunal.

I like, also, the amendment proposed by the delegate from Scott county (Mr. GALBRAITH). I think it very proper indeed that the Chief Justice should be made a member of that board. I am opposed to striking out the three sections, and I hope it will not be done.

Mr. BILLINGS. As one of the committee who made this report, if no other member objects, I will accept the amendment of the gentleman from Scott county.

The amendment of Mr. GALBRAITH was then agreed to.

The motion to strike out the three sections was not agreed to.

Mr. GALBRAITH. I move now to amend section three, by inserting after the words "Representative" the words—

—"And until an officer to fill such vacancy shall be elected and qualified according to law."

—As the section now stands, it suspends the appointment of the Governor at the time of the election of Representatives. If a person elected to fill the vacancy, should fail to qualify, there might be a contest as to who should fill the office, or whether there was any one who could do so. My amendment is designed to obviate that difficulty.

Mr. MORGAN. It seems to me that there is another objection to section three. If we examine it, we shall find that it does not give the power of appointment to the Governor, except during the session of the Senate. It was, no doubt, intended to give him the absolute power of appointment at any time during the year, but under the construction I place upon it, he would not have the power of appointment except by and with the advice and consent of the Senate, which is in session only fifty days.

Mr. BILLINGS. Your committee did not give the section that construction. It was designed that the Governor should not appoint without the consent of the Senate, if the Senate were in session; but if not in session, he should have the power of appointment until the next election of Representatives. The amendment of the gentleman from Scott county was designed to obviate the possibility of a vacancy, and no one to fill it. The committee based this section upon the supposition that there are as many office seekers, as offices, and if a vacancy should happen, some one would stand ready to fill it.

Mr. HUDSON. I think it very clear that the construction put upon this section by the committee is correct. It says positively that the Governor shall fill a vacancy by appointment, and the manner in which he shall fill it is pointed out upon certain conditions. If the Senate is in session, he shall do it with their advice and consent, but he shall positively do it at all events.

Mr. GALBRAITH. The difficulty would be remedied by striking out the words "if in session."

Mr. MORGAN. It seems to me that if we strike out the words "if in session," we make it absolutely necessary that the Senate shall give their assent. It seems to me, that as this restriction will apply but two months of the year, we might as well strike it out altogether, and give the Governor the right to appoint absolutely. I move to amend by striking out all after the word "Representatives," and insert, "to the Legislature." That would show what Representatives we mean. I offer it as an amendment to the section.

The CHAIRMAN. There is already an amendment pending.

Mr. MORGAN. Then I withdraw my amendment until that is disposed of.

The question was then taken on Mr. GALBRAITH'S amendment, and it was agreed to.

Mr. RUSSELL. I offer the following substitute for the section as amended:

"SEC. 3. Whenever a vacancy shall occur in any of the State offices, the Governor shall fill the same by appointment, until the successor of such officer shall be elected and qualified."

Mr. HAYDEN. I hope the substitute will not prevail, for the reason that it makes no provision for the election of an officer to fill a vacancy until the regular biennial election, which in some cases might be nearly two years after the vacancy occurred.

Mr. RUSSELL. I would leave that matter with the Legislature.

Mr. HAYDEN. I do not think that should be done.

The substitute was rejected.

"SEC. 5. In case two or more persons have an equal and highest number of votes, for any office, as canvassed by the board of State canvassers, the Legislature in joint Convention, shall choose one of said persons to fill such office."

Mr. BALCOMBE. I rise simply to suggest whether it would not be best to confer that power on only one of the bodies, instead of two in joint Convention. I can conceive of instances where the two Houses could never be brought together. I know such a provision is common in many of our Constitutions. But in these revolutionary times when a certain party is disposed to be governed by the border ruffian spirit, and to overstep all parliamentary rules, usages and customs, for the purpose of accomplishing political ends, the question arises whether it would not be best to confer that power upon one House instead of two? Suppose such an election takes place while a democrat is Governor, and the Senate is democratic, but the House Republican by a majority sufficient to overcome, in joint Convention, the democratic majority in the Senate. The Senate might refuse to go into joint Convention with the House, being well enough satisfied with the Governor already in office. That Governor would continue to hold his office until his successor was qualified. Such a circumstance might happen—it is very likely to happen. The question, then, in mymind, is, whether it would not be well to provide against such an occurrence by referring the election in such closely contested cases, wholly to the House of Representatives.

Mr. BATES. I think the suggestion of the gentleman from Winona is a good one, and I move to amend section five by striking out the words "Legislature in joint Convention "assembled," and insert "House of Repre- "sentatives."

Mr. PERKINS. I am inclined to the opinion that the amendment ought to be adopted. The contingency indicated might not, to be sure, occur, but still it might. In these revolutionary times, as the gentleman from Winona says, such transactions as he has spoken of, are very likely to occur. It does not seem to me that we need invoke the aid of the Senate to decide such a question of Election. Referring it to the popular branch of the Legislature is the next thing to referring it back to the people. I hope the amendment will prevail.

The amendment was agreed to.

"SEC. 6. When the determination of the board of State Canvassers is contested, the Legislature, in joint Convention, shall decide which person is elected."

Mr. KING. I move to amend section six, by striking out the words "Legislature in "joint Convention," and insert "House of "Representatives."

The amendment was agreed to.

Mr. BALCOMBE. I move that the committee rise and report the report to the Convention with a recommendation that the amendments be concurred in.

The motion was agreed to, and the committee rose and reported accordingly.

The question was upon concurring in the amendments of the committee of the Whole.

"*First Amendment.*—After the word "representative," in section three, insert the words "and until an officer to fill such vacancy shall be elected and qualified according to law."

The amendment was concurred in.

Mr. GALBRAITH. I now offer the following substitute for the whole of section three as amended:

"SEC. 3. Vacancies in any of the State offices aforesaid, shall be filled by appointment of the Governor—to continue till the successor shall be elected and qualified."

I would suggest that though the section as it is amended is short, yet the language is not plain. It is scarcely possible to use language sufficiently specific without going into the details of legislation. I know that some Constitutions have provisions in regard to filling the vacancies in offices, and I know too, that vacancies sometimes occur which cannot be filled. Men upon this floor know that there are now some difficulties in filling vacancies in the office of Register of Deeds. The amendment provides that the Governor shall in all cases fill vacancies whether the Legislature is in session or not. It is to be presumed that the Legislature will specify the details as to the election of officers to fill vacancies, but the government, in the mean time, has, by my amendment, the power to fill all vacancies until an election is had.

Mr. SECOMBE. As the gentleman from Scott county has remarked, it requires some length of wording, to provide fully for this matter. I had been attempting to prepare a section, which, for the information of the Convention I will read. It is as follows:

"Whenever a vacancy shall occur in any of the State offices, the Governor, by and with the consent of the Senate, shall appoint some person to fill said vacancy; and the person so appointed shall hold the said office until the next general election and until his successor shall have been elected and qualified; and in case the said vacancy shall occur during the first year of the term of said officer, then at the next general election an election shall be held to fill the balance of the said term."

In regard to the remarks which have been made about the Senate not being in session to consent to the appointments of the Governor, I will say that I think the practice has been, where similar power has been given to the Governor with the consent of the Senate, that the Governor appoints in the first instance, and submits his appointment to the Senate upon their first meeting. Such has been the practice in this Territory where the Governor had the power of appointment subject to the consent of the Council. He appoints, in the first instance, and submits his appointments to the Council upon their first meeting thereafter.

Mr. GALBRAITH. My substitute is a mere assertion of power. The gentleman's amendment is more definite.

Mr. HAYDEN. I would like to ask my friend upon my left, (Mr. SECOMBE,) if, in case the Governor appoints, the vacancy can be filled by the appointee until the Senate assembles? Can he fill the office until that time, though the Senate, upon its assembling, may reject his nomination?

Mr. SECOMBE. The appointment of the gentleman takes place immediately, subject to the revision of the Senate when they meet.

Mr. HAYDEN. If that is the idea, I am not so much opposed to the amendment.

In regard to the amendment offered by the gentleman from Scott county, I should wish to have it specify that if a vacancy should occur during the first year of the term, that the people shall have the power to elect to fill the vacancy at the first general election.

Mr. GALBRAITH. I would suggest to the gentleman, that cases might arise, when perhaps it would be well for the Legislature to order a special election to fill certain vacancies. My substitute gives the Legislature full power, to provide how and when an election should be held. I have no hesitancy, however, in allowing the words "until the next annual election" to be inserted; but I think the fewer words we use the better, as a general thing, provided they are sufficient to enunciate the power clearly. The Legislature then can provide all the details.

The question was then taken on the substitute offered by Mr. GALBRAITH, and it was adopted.

Second amendment recommended by the committee:

SEC. 4, line one, strike out the word "Auditor" and insert "Chief Justice of the Supreme Court."

Mr. CLEGHORN. I think an amendment should be made to that section, in addition to that recommended by the committee. There should be a provision specifying how many of that board should constitute a quorum.

Mr. PRESIDENT. The Chair would suggest that the universal rule is, that a majority shall constitute a quorum and shall govern.

The amendment of the committee was concurred in.

"*Third Amendment.*—Sec. 5, strike out the words 'Legislature in Joint Convention,' and insert 'House of Representatives.'"

The amendment was concurred in.

"*Fourth Amendment.*—Sec. 6, strike out the words 'Legislature in Joint Convention' and insert 'House of Representatives.'"

The amendment was concurred in.

Mr. THOMPSON. I move that the rules be so far suspended as to allow this report to be read a third time and passed now.

Mr. STANNARD. I hope that motion will not prevail. I think we had better pursue the same course with this report that we have with others.

The motion was not agreed to.

The report was then ordered to be engrossed for a third reading.

THE ORGANIZATION OF THE CONVENTION.

Mr. GALBRAITH. A few days since, the gentleman from Goodhue county, (Mr. MCCLURE,) and the gentleman from Winona, (Mr. BALCOMBE,) offered some resolutions relating to matters connected with the organization of this Convention, &c. I move that

those resolutions be taken from the table and considered now.

The resolutions were taken from the table and read to the Convention.

Mr. McCLURE. As there was but little business before the Convention this morning, it was thought best by some gentlemen who wished to speak to these resolutions, to take them up now. But as there is considerable business to be transacted by several of the committees, I would move, in order that they may have time to attend to their affairs this morning, that the consideration of those resolutions be postponed until half past two o'clock this afternoon.

The motion was agreed to.

Mr. GALBRAITH. I move that the floor be accorded to the gentleman from Goodhue county, (Mr. McCLURE,) at half past two o'clock this afternoon.

The motion was agreed to.

And then, on motion of Mr. GALBRAITH, (at ten o'clock and forty minutes,) the Convention adjourned until half past two o'clock.

AFTERNOON SESSION.

The Convention meet at half past two o'clock.

ORGANIZATION OF THE CONVENTION.

Mr. McCLURE. Mr. PRESIDENT, I wish to occupy the time of the Convention, for a short time, in speaking to the resolutions which I offered some days since, and in order to place the Convention in possession of the facts contained therein, I will read them. They are as follows:

"WHEREAS, There is official evidence from the production of certificates of election, that there is a majority of the legally elected members of the Constitutional Convention, who claimed and have been admitted to seats in this Convention; and,

"WHEREAS, The members now holding seats in this Convention who produced prima facia evidence by the production of regular certificates of election as such delegates, represent a majority of the legal voters of this Territory; and,

"WHEREAS, There are some bodies of men beginning to assemble in a chamber of this Capitol, who call themselves *the* Constitutional Convention, which they have an undoubted right to do, on the principle that if a man desires making a fool of himself, there is no law against it—many of whom have no certificates of election to the Convention; others who have certificates and who would be admitted to seats in this Convention upon the production of their certificates, who have not attended the meetings of this Convention, from reasons best known to themselves; therefore,

"*Resolved*, That the men now occupying the chamber at the other end of the Capitol are there, in our opinion, for the purpose of defeating the will of the people, and that their acts will not be recognized by the electors of this Territory; therefore,

"*Resolved*, That while that body of men in the Council Chamber are denouncing us to a Federal President and threatening us with the power of their masters that the above preamble and resolution, together with copies of the credentials and evidence of the election of members of this Convention be laid before the sovereign people of Minnesota, to whom we appeal for the ratification of our action as a Convention."

I wish, Mr. PRESIDENT, these resolutions passed by this Convention, with such modifications as this body may think proper to make, in order that we may make that appeal to the proper tribunal, which, in my judgment, have the right to try the legality of the acts we are here performing. The reason which induced me to offer these resolutions was, the offering and adoption of resolutions in the other end of the Capitol, by those who claim to call themselves a Constitutional Convention, and who say that they will be recognized by the general government as such. My object, then, will be to draw a contrast between the Republican party and the Democratic party, and to show, as circumstances may require, the object of the Democratic party to be just what it is charged—to defeat the will of the people, to defeat the Constitution formed by this Convention, and to prevent Minnesota from coming into the Union as a State. Those resolutions are as follows:

"WHEREAS, There is official evidence, from the report of the committee on Credentials, that there is a majority of the legally-elected members of the Constitutional Convention who claim and are entitled to seats in this Convention; and,

"WHEREAS, The members ascertained to be legally elected, from the official documents before this Convention, represents more than sixteen hundred majority of the popular vote of the Territory; and,

"WHEREAS, There is now a body of men who have taken possession of one of the halls of this Capitol, and call themselves the Constitutional Convention, without any legal authority or right, although some of those connected with that assemblage may be entitled to seats in this Convention, but who have not seen proper, as yet, to present their credentials, or to attend the meeting of

this body, since the regular adjournment of the Convention, on Monday, the 13th instant; therefore,

"*Resolved*, That the assemblage of persons now occupying the Representatives' Hall of this Capitol, styling themselves the "Constitutional Convention," is without the authority of law or Parliamentary usage, and revolutionary in its character, and therefore, should not be recognized by the electors of this Territory, nor by the officers of the General or Territorial Government."

Instead of appealing to the people for the rectitude of their acts, they now make an appeal to the President of the United States, and the heads of the departments.

"*Resolved*, That a copy of the above preamble and resolution, together with a copy of the report of the committee on Credentials, be forwarded to the President of the United States, each of the heads of the departments of the General Government, each of the members of the Senate and House of Representatives of the United States, and to the Governor, Secretary, Marshal, Librarian, Auditor and Treasurer of the Territory of Minnesota."

Now I remark that these resolutions were offered in the other end of the Capitol, by a government officer—by a man who has recently been appointed a Judge of the Supreme Court of the Territory of Minnesota, and the fact of its being offered by him and advocated by him, in my judgment indicates what course the administration are ready to pursue, what course they will pursue, and what decision they will make, so far as that man is concerned, in reference to matters of the most vital importance to the people of this Territory. In the remarks which he made in advocacy of those resolutions, let us examine the rule of decision which he laid down, by which matters of the most vital importance are to be adjudicated upon. He has asserted and laid it down as the rule in regard to the St. Anthony delegates, that the fact that the Governor of this Territory—a government officer, one who has no sympathies with nor relation to the people of this Territory—by an arbitrary official act, removed the Register of Deeds for giving certificates of election to members of this Constitutional Convention, decides the right to seats in this Convention of those upon whom he has adjudicated, without having those parties before him at all—taking the responsibility and assuming the position that bodies of this character have no right to judge of the qualifications and right of seats, of its members—an assumption in violation of every principle of right, a violation of every legislative rule that can be found upon record anywhere, either in monarchial governments or any other. Now let us see if I am correct in charging upon that officer the decision I have stated. He says referring to these St. Anthony delegates—

"How does it happen that these men assume to come in and deliberate in the Councils of the Constitutional Convention of Minnesota? They have not been sent here by the only principal authorized to dispute them—the people. They have been discarded at home, and why, then do they assume to sit there? It has been through the trickery and chicanery of certain officials. It will be said that they have prima facia the right to take that position, because forsooth, they have received credentials from the officer whose duty it is to certify to the members having the greatest number of votes. I answer, sir, by presenting these facts. In the first place it was so palpably, so manifestly, wrong, that the very members of the opposition would delight in the opportunity—by a contest to relieve themselves of the odium of the position they occupy and have placed their party in, by expelling those members from that House."

And then he alleges that there is an answer which is unanswerable to the claim that those delegates had a right to take seats in this Constitutional Convention. He says:

"And, sir, there exists a perfect answer to the *prima facia* character of right claimed for these credentials, which leaves no apology for the disreputable position that factious body have placed themselves in by admitting them to a seat among them. It is this: The people of that District were so outraged when it was made public that their wishes as expressed through the hallot-box, had been attempted to be defeated by an official of their own creation, that they insisted such a man should be removed from office. Charges were preferred against him for misconduct in office, before the proper tribunal; this man received a fair and impartial hearing. He made his defence there by his attorney, and it was finally adjudged against him, that he had been guilty of official misconduct; that he had violated the sworn duties of an officer, and had attempted to subvert the will of the people. This judgment, I say, removes from these papers styling themselves credentials upon their face, all authority which they might otherwise carry with them."

Such is the rule of decision laid down by the recent appointee to the Supreme Court of Minnesota. Under that decision all that would have been necessary for them to do in order to entitle them to seats in this Conven-

tion, would have been to come into this body, upon the day of its organization, with the judgment which the Governor pronounced against the Register, AMES, removing him from office, produce it, and this Convention would have been bound to deprive the sitting members from their seats although they had never had a trial, and their claims never passed upon by the proper tribunal.

But I do not wish to dwell upon that point, but proceed to call the attention of the Convention to another very important feature which appears in the speech which he made upon that occasion. He takes the ground that it is the intention of the Republicans to pass a Constitution right over the heads of the people. Then, sir, I take it for granted, from the position which he assumes here, that he is opposed to a Republican Constitution. He does not say that he is opposed to the Republicans making a Constitution, but he says that the Republicans wished to carry this matter, and to form a Republican Constitution against the will of the people. What people? But I do not wish to misrepresent his position, and I will read what he says:

"Mr. PRESIDENT, let me ask why all this has been done; these men have found, on coming here, that in order to make out their majority, it was necessary to do these things. They have been instructed from abroad that Minnesota must have a Republican Constitution, and in obedience to the will of their masters, they have, finding it impossible to do it regularly, and having been rebuked through the ballot-box, they have created the material and machinery to carry it over the people."

What a trying scene, to see this body assembled here, and endeavoring to frame a Republican Constitution, and to carry it right over the heads of the people!

My object, however, so far as that government officer is concerned, was not materially to take issue with him upon any particular point, but I quote him to show what his rule of decision is to be. Ex-Governor Gorman, and the party to which he belongs, have placed this man and the Ex-Governor upon the stand in order to testify to the world that the Democratic members who belong to the Constitutional Convention were in the right at the time they left this Hall, and at the time they came back, and went away again. Now I am sorry that I may have to allude to some things which I would gladly avoid. There are two or three ways by which you may destroy the evidence of a witness. One is by showing that he contradicts himself. He has laid down the rule by which our acts as a Constitutional Convention are to be judged, and he has stated that we are to be judged by our acts. Now, I wish to apply the same rule to him and his party which he wishes to apply to us. Now, if upon the application of that rule, his works, and the works of the party with which he acts, gives the lie to their profession, we conclude that when they make a statement, they state what is palpably untrue. Now, I propose, in the next place, to show by the evidence of a member of that Convention, by the name of SIBLEY, that what ex-Governor GORMAN stated in regard to the objects which they had in view in coming into this Hall, is palpably false. Then I expect to show by the *Pioneer & Democrat*, that ex-Governor GORMAN is unworthy of credit in any community, in any Court of Justice, or before any body of men. Now if I succeed in that point, then, so far as the testimony which has been sent out goes, it seems to me that it will have but little weight with the people. Let us see, then, what he says, when speaking upon this resolution of Mr. FLANDREAU'S:

"Well, sir, what further did we do? We came into the Hall of the House of Representatives, on the 13th of July at 12 o'clock M. There was no particular order that we should meet in that room or that we should meet in this; but a large majority of the delegates elected by the people did meet in that Hall. After the Democratic delegates come into the Hall, what did they propose to do?"

Then he goes on to show what they decided on in caucus, what was proposed to be done, and what they came into the Hall to do. Now, when they came into this Hall, they did not do, nor attempt to do, what they had decided to do. Then, judging them by their acts, we must come to the conclusion that the statement which he makes here is palpably false. He goes on to say:

"I intend to tell the country what their caucus said they should do. I intend to tell the country everything that was done in caucus by the Democratic party which is sitting here to-day.

"In reading the Statutes of the Territory, we found that the returns of elections should be made to the Secretary of the Territory, and that the Secretary of the Territory was, perhaps, the only proper custodian of those returns. My reading of the

Statutes expressly requires that at a given time these returns shall be made to that officer—of course this applies to the election of Councillors and Delegates to the Legislature, and of Delegate to Congress. That officer has now the returns of the election of all the members of this Convention; he had them mostly then."

Now, here he admits that he did not even have at the time they came into this Hall on 13th of July all the returns of the Registers of Deeds of the election of delegates to this Convention.

"Well, sir, what did our caucus determine to do? We passed a vote that the Secretary of the Territory should go into the Hall of the House of Representatives at the proper hour,

—That proper hour he admits to be 12 o'clock M.—

and call the Convention to order—not call any member to the chair, nor by any trick try to take the advantage of the adversary, but proceed and call the Council Districts in the order in which they stand. Every man before me will hear me out in saying that this was the course which the party I am now addressing expected to pursue when we came into that Hall.

"When we had called the Convention to order, and the Council Districts had been called, it was supposed that in the ordinary course of parliamentary proceedings, he would, like the clerk of the House of Representatives in Congress, have a list of members made out. And why should *he* have a list? Because the returns were made to him."

He admitted a little while ago, that the returns were not all made to him.

"And who else should have the list? Certainly not Mr. North, a delegate from Rice county. It was perfectly proper and regular that the Secretary should have such a list. We therefore expected when we came into the Hall, without violence, without pistols in our pockets, without sending for our neighbors to keep us from being whipped by the Border Ruffians (laughter); that in pursuance of the most usual and regular course of proceeding, the Secretary would call the first Council District and allow the members to come forward and present their credentials, then the second, third, fourth, fifth, sixth, seventh,—yes, sir, call the Seventh Council District, too—and I shall have something to say of the rights of the delegates from that District presently. We intended to proceed thus with the Districts until they had all been called, when, if a quorum appeared, the Convention would be ready to transact business.

"Having proceeded to this point, the intention expressed in our caucus, was, inasmuch as several of our members had not come in, knowing that in consequence of this alarm which had been sounded throughout the Territory, calling on the Republican Delegates to be here; they were here, armed cap-a-pie, and that having slept upon their arms they were expecting some great development. If, on calling the roll, it resulted as we expected, that the Republicans had the majority, we intended to appeal to their justice to adjourn, and not organize until our men should have had time to come in, although we had reason to believe the appeal would be like the appeal made to sinners a thousand times, and with about the same effect."

Now I wish gentlemen to bear that last remark in mind, so that they may see, when I come to read the *Pioneer and Democrat*, if Ex-Governor GORMAN has not probably had more appeals in vain, and appeals to one of the greatest sinners without effect, than almost any man who has lived since the time of the destruction of Sodom and Gomorrah. (Laughter.)

"This was the course marked by the Democrats in caucus to pursue, as forty-four of the men here present will bear me witness. We had no arms, no pistols, no bowie-knives, no border ruffian revolver party to take possession of the Capitol at midnight. We had no scenes in contemplation such as have furnished food for the Republican party during the last eighteen months. Nothing of the kind, we were resolved, should emanate from us, but the course we proposed to pursue was precisely what would have been pursued by any deliberative parliamentary body in the country. Every man before me knows this was our intention. If we could secure an adjournment until our men could come in, of course we should have been glad to do so."

Now Sir, judging them by their acts and not by a word of the Ex-Governor, how does the matter stand? Did they attempt to do a single thing which he said they had determined in caucus to do, and for which they came here to do, with the single exception of calling the Convention to order? Did they attempt to ask for credentials? Did they then undertake to call the Districts? Did they attempt a temporary organization at all? They did not. Not the first step was taken toward it. Then we say, when the declaration is made by him that they came here for that purpose and did not attempt to consummate it, but did do something else, we have the right to say that the statement is knowingly false, and is made for public capital. By their words we are to judge them:

"This is all we asked here. We only asked that when we came into that Hall, the roll should be called; those members whose seats were contested should stand aside until we had ascertained

whether a quorum was present, and then that their cases should be determined according to the law and facts."

Now, that is all any man would have asked —all that would have been proposed by this Convention had they come in and made objection to members whose seats they proposed to contest. How would the matter have stood then? They had the minority, and were not prepared to go into an organization, and they intended to ask for an adjournment in order to give time for their absent members to be present. Now, how long did it take them to organize after they left and had the matter in their own hands, with all the bogus delegates to procure? How long did it take them to satisfy themselves that they had a sufficient number to organize? I believe from about Tuesday the 14th, until near two weeks from that day. Did they intend to ask this Convention to remain here all that time unorganized, for the purpose of permitting their members to come in? They would not dare tell the people they did. Hence we come to the conclusion that the assertion which has been made time and again must be untrue, and that they came in here for the purpose of making a motion to adjourn, and leaving this Hall, thereby supposing that they could prevent the organization of this Convention. This is all charged upon them.

"Well, sir, Mr. Chase, the Secretary of the Territory, walked up to the chair first and called the Convention to order; then Mr. North, precisely in keeping with the position of that body of men who had remained in that hall from midnight until day, and from day until 12 o'clock at noon, to prevent the Border Ruffians from forestalling them and performing any act by which they should get the advantage, also came into the desk, and made some motion, which he himself put to the Convention."

Now, sir, what are the facts in regard to that matter? They did come into this Hall, and a large proportion of those who are now members of this Convention were in their seats. Did the Democratic members, when they came in, take seats as men who came for the purpose of organizing a Convention? No, sir! They came rushing in as a body, and the very first thing done by them was to move to adjourn, and the next thing they did was to leave the Hall. Now, was that according to parliamentary usage? Who ever heard of a parliamentary or legislative assembly acting in that manner? How do men usually assemble upon occasions of this kind? Why, in the morning as soon as the doors are open, men begin to drop in one after another, exchange salutations, and by the time the hour arrives for organization, members are in their seats. They are not out in some secret caucus; they are not devising ways and means by which they can defeat an organization. They come in like men and take their seats promiscuously through the house. How did these men come in? In a parliamentary manner? They admit that they came in as a body. They say they had a right to. Who disputes the right? But we say it was unparliamentary. No instance of the kind can be found upon record. They did make a motion to adjourn. They did it while many, if not all, of their members were standing. That was not exactly parliamentary. I believe the parliamentary usage is to rise from a seat and address the Chair. Did the mover upon that occasion arise and address the Chair? And were the members sitting, when he did it? Most undoubtedly not.

He went on, however, in his statement, and read from Jefferson's Manual, to show that a motion to adjourn is always in order, and that no motion could properly be put until that motion was decided. I have always heard that when a person undertakes to tell what is untrue, he is very sure to leave some point untold, and thereby exposes his folly.

Now I will read from Jefferson's Manual, page 39:

"When the Speaker is seated in his Chair, every member is to sit in his place."

Now, when Mr. CHASE took the Chair, according to all parliamentary usage, every member should be sitting in his place. Where were they? Together in a body, and standing upon their feet. It was unparliamentary. Again Jefferson's Manual, page forty-eight, says:

"When a motion has been made, it is not to be put to question or debate until it is seconded; it is then, and not till then, in possession of the House."

Now, I understand a motion is not before a body at all for action, until it has been seconded. Now, will this gentleman who made the motion, and will the Chairman who

was governed by strict parliamentary usage, dare to say that the motion to adjourn was seconded? They would not dare to do it. Then there was no motion before the House at all and he had no right to put it. If he did, it was in violation of every parliamentary usage. "It is then, and not till then, in possession of the House." Until seconded it is not before the Assembly, and it was absolutely null and void.

Now it is said that some men's memories are short. It is astonishing that they, being such strict parliamentarians, and intending to rely strictly on such parliamentary usage, to sustain them in the act they perpetrated, did not think to get some man to swear that he seconded the motion. They will in all probability plead in excuse of that, that they had not time. But they have seen fit to rest their case upon the broad foundation that everything they did was strictly parliamentary, and that the question was properly put at the proper time, and properly carried.

I have now attempted to show that their acts, when they came in here, contradict the assertion the Ex-Governor made. Now let me introduce a piece of evidence from the speech of Mr. SIBLEY. He says:

"When they went into that Convention, knowing that several Democratic Delegates were absent, they desired to adjourn; but if they had been voted down, unjust as I should have considered the conduct of the opposition, I for one should have submitted."

Here Mr. SIBLEY says that when they came in here they desired to adjourn, and if they had been voted down, he, for one, would have submitted. Here Mr. SIBLEY is corroborated by the facts. GORMAN is contradicted by SIBLEY, and contradicted by the facts as they occurred. Which shall we believe? Shall we believe GORMAN, when he attempts to send out his statement of facts to the world, and which he wishes to be relied upon, or shall we believe Sibley who is corroborated by the facts themselves? According to SIBLEY, they came in here for the purpose of adjourning. That is what they attempted to do when they did come in. Therefore, I say that the remarks of SIBLEY prove that GORMAN's remarks were untrue, and the facts prove them so.

Well, Ex-Governor GORMAN goes on to tell us of the principles of the Democratic party. I propose to bestow a few moments' attention to that, and then conclude. He says:

"Does the Democratic party propose to extend the institution of Slavery? Not a single member sitting in this Constitutional Convention but that would rejoice to see the voice of the people stop the progress of Slavery where it is. The Democratic party is not a pro-slavery party in the Northern States."

I want gentleman to notice that particular expression—the "Northern States"—because before I get through, I intend to show what the Democratic party is in the Southern States. "The Democratic party is not a pro-"slavery party in the Northern States." No North, no South, no East, no West, but a Union party!

"They are in favor of having free territory wherever it can be done by the legitimate and constitutionally expressed voice of the people. Our doctrine here now is, and we will embrace it by a unanimous vote of the Convention, that neither slavery or involuntary servitude shall exist within the limits of Minnesota, except for crime whereof the party has been duly convicted by a jury of his countrymen. We will give the falsehood to the declaration promulgated by their presses and their speakers all over the country, that we are a pro-slavery party, by putting the seal of condemnation on their brow, in the Constitution that will be framed by the Convention."

Now here we have the sentiments of the Democratic party, as expressed by a member of that party in the North. They occupy pretty much the same position as the Republican party occupy, when their views are expressed by their own speakers at the North. They are opposed to the extension of slavery, only they will put in that peculiar word "constitutionally." That is the only difference. They are decidedly and distinctly opposed to the introduction of slavery into the Northern States. But what are their acts in Congress? Who was it that introduced, who was it that sustained, who was it that passed the Kansas-Nebraska bill, which introduced slavery into Kansas? Was it not the Democratic party of the North, which the gentleman says is opposed to the extension of slavery? Then do not they preach up free soil and free territory, when at home, and do they not when they get to Congress, and when they vote for President, throw their influence continually with the pro-slavery party?

If that is this sentiment of the Democracy

of the North, let us try for a moment to ascertain how it is that this party in the North, entertains the opinion which he there expresses, became either the Democracy at the North or the Democracy at the South. Which is dishonest—for they cannot pull together as they do in the Congress of the United States, without a sacrifice of principle upon the one side or the other; and I know it is not the Democracy of the South that is dishonest, for they still promulgate their principles right straight ahead. It is well that the gentleman put in his words "the Democratic Party are not a pro-slavery "party at the North." He showed a great deal of ingenuity upon that point, which ingenuity will be pretty well expressed when I come to read from the *Pioneer & Democrat*. I will read a declaration of sentiment by the Hon. M. KEITT, a leading Democratic member of Congress from South Carolina. He says:

"The fountains of the great deep of the North seems to me to be broken up, and the abolition flood rises higher and higher every day. Little subaltern municipal elections, and the control of cross-roads, which the opponents of Black Republicanism have in some instances torn from them, are not noticeable wrecks upon the waters. They have the legislative, judicial and executive power; and this is all that we at the South are concerned about. "I believe from the signs, that the Democracy will be defeated in 1860;" and while I entertain this belief I shall not conceal it. I believe that the safety of the South is only in herself. The road to Federal honors should not be over her rights, nor should betrayal and treachery be the passport to Federal favor. My advice, then, to the South is, to have some—not absolute—confidence in the National Democratic party, and keep her powder dry. The latter is much more likely to save her than the former."

Now that is the sentiment of a portion of the party with which the northern Democracy continually act. Then it is well for the genman to put in the "Democracy at the North." There is a Southern Democratic party, with which the gentleman acts, and which is advising to "keep their powder dry," because that is the last resort, having greater reliance upon that than upon the Democracy of the nation.

Well, Mr. PRESIDENT, to show the sentiment of that party South, let us read a few sentiments as taken from the Charleston *Mercury*, given at a celebration of the Fourth of July—a day which ought to be held sacred to every American; a day when politics, when party, when everything calculated in its nature and tendency to harrass the feelings of one section of the country towards another, ought to be left entirely out of view; a day on which above all others, citizens of all portions of the Union ought to meet together as brethren, and lay aside all political preferences, and spend, as it were, a jubilee. But what did they say upon that day?

"*A Southern Confederacy.*—The only reliable and certain security of our Southern rights."

What will the Democracy of the North, who are always harping upon being Union savers, say to that?

"*Las Casas and Wilberforce.*—The Spanish priest was a statesman—the British statesman a charlatan."

"*The Year* 1860.—May it toll the death-knell of these United States—an union of States, but not of hearts."

There is a sentiment of the Democracy of the South. How will the Union-saving Democracy of the North relish that? There is the sentiment of the party with which gentlemen at the other end of the Capitol are acting. That is the party which calls themselves the National party.

"*Walker of Nicaragua and Walker of Kansas.*—The former a friend to the South, the latter an enemy to the Constitution."

Walker, this fillibuster, the friend of the South. What next?

"*Kansas.*—If she is not a Slave State it will be the fault of Walker and the Administration. Let the South look to all traitors."

There is a sentiment for you, promulgated by this Southern wing of the Democratic party. If Kansas is not a slave State, it will be prevented by the treachery of the administration. This looks very much like the declaration of a party which wishes to extend slavery beyond its present limits, and to bring into this confederacy of States, another slave State. Again—

"*Butler and Brooks.*—The one the stay, the other the promise of the State. The memories of the aged Senator and the young Representative inspire us with equal homage."

Here follow some sentiments drank by the members of the "Boat Company No. 4, 15th Regiment of South Carolina Militia," upon this same Fourth of July, which show not only the sentiment of the South, when assembled to celebrate the glorious Fourth, but shows the military spirit of that State, and which pervades the whole Democratic party.

"*Hon. P. S. Brooks.*—Though dead, liveth in the hearts of the sons of Carolina."

"*Gen. Bonham, sucessor to Brooks.*—Able to lash with tongue and hand; may he keep in mind the achievement of his predecessor, and when argument has failed, wipe out every stain attempted to be thrown upon the people or institutions of the South, by the magic of a *cowhide.*"

"When argument has failed"—that is the Democratic doctrine—"wipe out every stain "attempted to be thrown upon the people or "institutions of the South, by the magic of a "*cowhide.*" That is one of the planks engrafted into the great Democratic platform. "When argument has failed," when the good sense of the people has rebuked them, then try the border ruffian power. It is a prominent plank in their platform, yet a plank which sometimes gets knocked out, and it was the knocking out of that plank of the platform in the last election, which causes the Democracy of Minnesota to-day, to occupy the ground which Cæsar wished his wife to occupy—the back ground.

"*Slavery*—An institution which the wants of society keep in existence: negroes in the South, and white slaves in the North."

Now where is there a Democrat who can submit to act with that party without unmanning himself? "Negroes in the South and white slaves in the North." Do they mean our laboring class? No, sir! They mean the men who do the dirty work for them in politics. They call them their slaves, and they glory in the appellation of slaves. It is glory enough for them to be called the slaves of the South. Still I do not know that I should take any exception to that. If they desire the name, let them wear it.

"*Hon. L. M. Bonham, Member of Congress from Edgefield.*—May he supply himself with a cane named after his predecessor, of sufficient strength and size to heat, whenever its country's rights demand it, all the Abolitionists from the Government seat at Washington.

That is the gentleman who succeeds Mr. Brooks.

The Hemp Crop of Kansas—Ought to be applied in a domestic way to hang the Free State agitators in the Territory.

Now, sir, take these anti-slavery opinions of the North, as expressed by the Ex-Governor, I take the pro-slavery sentiment of the South, and see the work acting with the South, and I say there is no man but must come to the conclusion that either the Democratic party North, or the Democratic party South are dishonest. They cannot the one be opposed to slavery, and the other be in favor of it, when every word and act in Congress, by those who adhere to the present administration go to sustain slavery.

Now I propose to occupy a few moments in reading a resolution which I find in the *Pioneer and Democrat*, to sustain the position I have taken, that the object of the assemblage in the other end of the Capitol is to defeat the wish of the people to come into the Union as a State. This resolution was passed at a meeting at St. Peter—the county represented by my friend, Mr. COGGSWELL—on the twenty-seventh of July:

Resolved, That we cordially approve of the stand against fraud and injustice which the Democratic delegation have made, and that we exhort them to adhere to their position at all hazards, preferring rather that we remain as a Territory, than that the odious features of modern Republicanism shall be thrust upon us in in our fundamental law against the expressed will of the people."

Now if that is the declaration of the Democratic party—and it is published in the *Pioneer and Democrat*, the Government organ here—there is an intention in that party to defeat our coming into the Union as a State, and rather than let a Republican Constitution be thrust upon the people of the Territory of Minnesota, they will remain in the other end of the Capitol to defeat it.

But I promised to introduce an item of evidence to show that our friend, Governor GORMAN, is unworthy of credit. I know this is a very serious charge, but when he brings himself upon the witness stand to testify in regard to a matter of fact, he makes himself a public witness, and all men have the right to test his character for truth and veracity. I hold in my hand the *Pioneer and Democrat* of March 5th, 1857. Its reputation is above suspicion, (laughter) and hence I read from to it. The article is headed "A Second Tribute His Excellency, Governor GORMAN." It says:

"The fact is, however, as certain as it is singular, that in spite of the aids of your former ruptve and the general prosperity; in spite of the fact that you were a Democratic Governor of a Democratic people, and acting in conjunction with a Democratic Legislature, you came to the close of the first session under your administration, an object of contempt among your friends, and a derision among your enemies.

"Failing thus, as you have, to impress yourself favorably upon the Democracy of this Territory; failing, also, to create a "Gorman" faction in the party, which either in point of talent or number, could claim the consideration of respectability; and failing, further, in linking your name with any measure for the benefit of the people, except as its opponent; we are frank to confess that your present open alliance with the Black Republicans of the Territory has occasioned us pleasure and commisseration;—of pleasure that the Democrats are relieved of the burden of your countenance, and of commisseration for the opposition in view of the incubus which is thus, in your person, fastened upon them.

"But this alliance, if it does not redound to your credit as a man, or to your fame as Executive, has already secured one of the objects for which it was consummated; and the reproach can no longer be urged against your Excellency, that your administration is barren of even one solitary public measure. The bill for the removal of the Capitol can, after your retiracy, be successfully pointed to in vindication of the truth that your Excellency has in one instance, at least, left your impress upon the legislation of the Territory. That this measure involved corruption in its passage, and must involve perjury in its approval by your Excellency, does not in the least invalidate the truth of what we have stated. No amount of crime can altar the fact of your Excellency's success. The fact may be damning, but it is no less a fact; and with a man of your Excellency's temper, success, even if it brings infamy, is more palatable than the galling mortification of unvarying defeat. Organic acts promise now to be mere cobweb trash, when they stand against the interests of your pocket and the demands of your ambition; and the consummation of this act, if it prevents your attaining celebrity for virtue, will certainly insure you notoriety for vice—an alternative far more congenial to your Excellency than the burial of obscurity, which, otherwise, must have remained your inevitable lot. There is a fitness, too, in the fact that an administration, the inauguration of which was an afflictive dispensation of Providence, the continuance of which has been characterized by folly and imbecility, should close, as your Excellency's bids fair to close, amid outrages upon the paramount law, amid the corruption of the legislature, and amid the crimes, and the infamy following the crimes of its official head."

Now, sir, with that evidence piled up against the ex-Governor, we will leave him upon the present occasion, and offer a few remarks in regard to the position which the Republican party hold in this country. It is alleged by our opponents that we are enemies of the Union, and it is the cry of the Republican party continually, "dissolve the Union." The Republican party beg leave to represent their own sentiments. What are they? They are opposed to extension of slavery to the Territories belonging to the United States; and they are opposed to the coming into the Union of any more slave States. Such is their position. But, say their opponents, they are seeking to elevate the colored man to a level with the white man.

Now, sir, so far as the Republican party are concerned, they sympathize with suffering humanity everywhere. Yes, sir, with the poor suffering imbecile Democrat; they would pick them out of the mud, and vice and degradation, and, if possible, make a man of him; they would, if possible, have him change his opinions and take a different course, and walk in the road that leads to honor. This they have been trying to do, and we are happy to know that very many have left their course of sin and folly and are walking in the high road of Republicanism—and are now the staunchest Republicans, and the strongest opposers of the extension of slavery, we have in all our ranks.

But we claim to be emphatically the white man's friend. Look at the declaration contained in the sentiment of the South: "Negroes, slaves in the South; white men, "slaves in the North." Now we extend an invitation to all countries, to every people, language and tongue, to come in and join in our institutions. They come here to our free Territories and free States to seek a home and asylum from oppression. Now what do we seek to do? We seek to elevate free labor; we seek to prevent the coming amongst us and working side by side with the farmer, the slaves of the South. We do not ask them to come here to be degraded; we do not ask them to come here to work with the bond slave. We invite them to come here to enjoy our free institutions, to be free men, and to mix and mingle with free men. That is our position as the white man's friend. While we sympathize with the blacks, our determination is to protect the whites from the baneful influences of slave labor. Our acts prove that; while their acts prove that they are for the dissolution of the Union. What did Brooks say? "If Fremont was "elected, he was in favor of marching to the "Capitol, seizing upon the Treasury, marching down South and establishing a Southern

"Confederacy; of tearing to pieces the Con-"stitution of the United States, and tramp-"ling it under foot." Such is the language of the South, and just in keeping with that declaration was the acts of the minority here on the thirteenth of last month. It was "rule or ruin." They knew they had not a majority and they were unwilling that the majority should rule. They supposed they had adjourned the Convention, and they marched off as Brooks marched off with the Treasury, but poor mistaken men, they left the Treasury behind. It reminds me of what Fremont told a Southern man, who said if he, Fremont, were elected he should leave the Union. "Well, sir," said Fremont, "I suppose you will leave the State behind." They left the Convention but they left the Hall behind, and they left a majority of members.

Now, sir, in framing a Republican Constitution, our appeal is not to government officers and heads of departments, but to the people to sustain us. While they go to Washington to get sympathy, we go to the people and lay the facts before them. If they sustain us, well and good—if they condemn us, why then we are condemned. But we are willing to go to the people with our Republican Constitution, and with no other Constitution can we come into the Union.

Thanking the Convention for their indulgence, I will resume my seat.

Mr. NORTH. Mr. PRESIDENT, if there is time, before the Convention adjourn, I would like to make a few remarks on the resolutions which have been called up, and especially upon that offered by the PRESIDENT of this Convention, alluding to the intention of the Democratic Convention in the other end of the Capitol to keep out of the Union, if possible, the State of Minnesota, unless it is to come in Democratic. But before proceeding to this, I wish to present a few points of contrast between the Republicans entirely composing this Convention—the Constitutional Convention of Minnesota—and the Democratic caucus that left this Convention on the thirteenth of July, and have since assembled from day to day in the other end of the Capitol.

1st. The Republicans have fifty-four delegates with credentials that are unquestioned.	1st. The Democrats have but forty-three with unquestionable credentials.
2d. The Republicans have fifty-nine members in actual attendance with credentials.	2d. The Democrats, at most, have but fifty-four on the list. And no one can tell how many are in attendance, for want of calling the roll.
3d. The Republicans refused to organize the Convention at 12 o'clock at night, and only watched the Democrats to prevent them from doing it, as they once did in the Ohio Legislature under Gov. Medary's lead.	3d. The Democrats laid their plans to organize the Convention at 12 o'clock at night; but were prevented by the vigilance of the Republicans.
4th. The Republicans laid no plans to defeat an organization of the Convention on the first day of the session.	4th. The Democrats, by a trick, tried to defeat such organization, and run away from the Convention as it was about to organize; and in less than a minute after entering the Hall.
5th. The Republicans with fifty-six delegates, did organize the Convention on the first day of the session, and went on with business in the Hall designed for the meeting of the Convention.	5th. The Democrats left the place designated for the Convention, and for two weeks did nothing.
6th. The Republicans presented their certificates of election, and were sworn in on the 13th of July, the first day of the session.	6th. The Democrats did not report on their credentials until the 23d day of July; and were not sworn in until the 27th.
7th. The Republicans had no credentials to notice but those that were presented by members then present.	7th. The Democrats reported on the credentials of the Pembina members, at the very hour when those members were taking dinner at Little Falls, 140 miles from St. Paul, and several days before their arrival at the Capitol.
8th. The Republicans have none in their numbers who are ineligible to the office of delegate.	8th. The Democrats have three United States officers, who, by the laws of the Territory, are ineligible to the office of delegate to the Constitutional Convention.
9th. The Republican delegates all reside within the Districts from which they were elected, as required by law.	9th. Five of the Pembina Democratic delegates reside outside of the District from which they profess to have been elected; four of them from beyond the line of the State, and the fifth being from Minneapolis, and never having lived within five hundred miles of his pretended constituency—all of them by law disqualified for seats in the Convention.
10th. The Republicans held no caucus on the Sabbath.	10th. The Democrats held a caucus on Sunday eveniug, which lasted 'till midnight, and then their piety was shocked because the Republicans went to the Capital too early on Monday morning.

11th. J. W. NORTH called the Convention to order at the written request of a majority of the whole Convention.	11th. Mr. Secretary CHASE attempted to interrupt this proceeding by calling the Convention to order in opposition to the will of the majority.
12th. J. W. NORTH was a proper person to call the Convention to order, being a legally elected member with a certificate of election.	12th. Mr. CHASE was not a proper person to call the Convention to order; not being a legally elected member—having no certificate of election, and not being eligible to the office.
13th. The precedents in other States sustain in all respects the course taken by the Republicans.	13th. On the contrary, the precedents in other States condemn in all respects the course pursued by the Democrats.
14th. The Republicans did not adjourn until they had an organized body to adjourn.	14th. The Democrats pretended to adjourn when there was no organization to be adjourned.
15th. The Republicans had a President to preside and a Secretary to record their first day's proceedings.	15th. The Democrats on the first day had no President to preside nor Secretary to record their proceedings — and no proceedings to record.
16th. The Republicans have a record to show just who were present every day from the first day of the session.	16th. The Democrats have no record to show who of their number were present for the first two weeks; they never having called the roll. And I am not aware that they have called it to this day.
17th. The Republican members were all sworn in on the 13th of July, the first day of the session, and their records show how many were sworn in.	17th. The Democrats none of them were sworn in until the 27th of July, and then they carefully avoided calling the roll, so as to show how many of their number were absent.

The Convention was called to order, by calling Mr. GALBRAITH to the Chair.

Mr. GALBRAITH being the only person appointed to the Chair, was the only one to entertain motions to adjourn, or any other motions.

Mr. CHASE having no certificate of election was only a disturber of the Convention, and his right to be there at all was not recognized by the majority and could not be legally, until he had in some way shown himself entitled to a seat in the body, much less his right to call the Convention to order against the express wish of a majority of the whole number entitled to seats.

As no certificates were presented by the minority, and as they did not wait to complete a preliminary organization, and had no Secretary, there is no legal means of knowing how many of them were present—whether indeed any of them were there—for they have no record of their proceedings of that day.

Under such circumstances it was impossible that they could have a legal adjournment of their own number, to another day; even if they had been there alone, for they had no body to adjourn. It could not be properly known that any portion of the Convention were there without some list of names or the production of certificates. This should have been ascertained before any attempt to adjourn. Besides if they had a proper adjournment, they had no Secretary to record it, and therefore no proper evidence of such fact. Nor can they properly have anything on their records to show whether they went into the Representatives' Hall on the 13th, as a Convention or as a democratic caucus. From their conduct it appeared like a caucus; and the fifty-six members of the Constitutional Convention paid no attention to their manœuvres, but, in obedience to duty, proceeded to an organization.

In the face of these facts, the minority claim to have legally adjourned, and even have the impudence to assert that they not only adjourned themselves, but that they also adjourned the majority who never recognized their authority in any respect. As well might any rowdy in the street rush in and adjourn the Convention after its permanent organization, as for CHASE (who held no credentials,) to attempt to do it in the preliminary organization. The claim is too ridiculous for sane men to assert for a moment, and none would think of doing it, except on the principle that drowning men catch at straws.

In order to make anything of this famous adjournment, which seems to be the only hair on which they hang, it must of course be claimed that CHASE was Chairman of the meeting, and authorized to entertain motions. But let us inquire by what right, if at all, he held this prerogative.

It was first claimed that he had a right by virtue of his office as Secretary. When they found that all precedents failed them, they gave this up.

They next claimed that as a matter of "courtesy, this prerogative should be extended "to him." But if Mr. CHASE, without a certificate of election, can, on a claim of courtesy, take away the rights of delegates who have

certificates, and against the express will of a majority, intrude himself upon them and adjourn their body, how many other government officials might claim the same courtesy, and by virtue of it, exercise the same control?

There is no evidence that *any number* of the delegates extended to CHASE this courtesy, but it is certain that fifty-six delegates then present did not.

I have not thought it best, MR. PRESIDENT, to spend much time heretofore, in talking upon this subject, preferring rather to leave the consideration of it until the time should arrive when we might have all the positions taken by those gentleman who so unceremoniously left this body; and I think we have, by this time, pretty fully ascertained their position. I think we have learned pretty nearly all the sham excuses they have to give out by way of attempting to justify themselves for so unceremoniously leaving this body. I will, as briefly as possible, advert to one or two of their speeches, and notice a few points.

It is not a little singular to see, with what unanimity they resort to every manœuvre and subterfuge, and attempt to throw dust and mystify, so as to prevent, if possible, the real facts of the case from coming before the people, for their impartial judgment. It is a little amusing to see, in ex-Gov. GORMAN'S speech, the very great anxiety he seems to feel, to have the people understand, that the Republicans are a dangerous set of men—perfectly terrible—the chief points he makes being the expression of his fears of the outrages the Republicans would commit, if the Democrats did not prevent them by depriving them of an opportunity. It is really amusing!

Near the commencement of his speech, the Ex-Governor says:

"The scenes which have transpired in the Territories of this Union within the last eighteen months, or two years, have given cause—I think just cause—of alarm for the perpetuity of the institutions of our country."

Knowing the partiality of the Ex-Governor, for certain peculiar institutions, it might be well to inquire what institutions the Republicans are opposed to, for it is the perpetuity of those he seems to be alarmed about. I notice, on the other page, he alludes to it again:

"They belong, he says, to a party which has no sympathy for the institutions of the South as they view them."

A little further down he says:

"No sir, go where you will, and these men will tell you that, whatsoever calamities may befal this Union, the institution of slavery shall never extend one inch beyond where it is now."

In two or three other places, I notice similar allusions to the horrible fact that Republicans will oppose the peculiar institution, betraying the anxiety he is in to alarm the country about their fearful designs, and their being opposed, actually opposed to the further extension of slavery. But terrible as the accusation is, to this we plead guilty. We are, decidedly, calmly and firmly opposed to the further extension of slavery. The Ex-Governor has apprehended us right. But I cannot think the fearful vision has really alarmed him quite so much as it would seem.

In other parts of the speech, he would appear to have the idea constantly before him, that the Republican members of this Convention, and the party in general, have a strong disposition for bloodshed; that we were fierce and anxious for a fight, in which we might gain something—I don't know exactly what. I will read:

"I want the country to know why we did it. If we had gone into the Hall then, it would have been said, we came there to take it by force. Our opponents had circulated the report, that we intended to take it by force. * * * * *

"Mr. President, that is exactly what they wanted to do. They wanted violence. They wanted food for fanaticism. They wanted the material for another campaign. It would have suited ther purpose if there had been violence and bloodshed.

* * * * * * * * *

"Well sir, in our caucus, we resolved to be peaceable, and to commit no violence. We resolved not to give them the chance they wanted to tell the country we were ruffians. We went to the door of the Hall in obedience to our adjournment, and when it had been announced in an official form, that the Hall was in the peaceful possession of a meeting of the citizens of the Territory, we adjourned to this chamber. Again "Othello's occupation's gone." That was the crisis of this Constitutional Convention. If violence had been used on that occasion, it would have furnished food for their party in Minnesota for years to come. Instead of that, our whole proceedings have been conducted in a quiet, orderly manner, in accordance with parliamentary law and practice."

I have a few words to say upon the passage

I have read, and other passages occuring in the speech carrying the same idea, for he speaks often of the anxiety of the Republican party to have war and bloodshed, and seems to desire very much to make the impression that the Democrats are all too peaceable and quiet and orderly to be drawn into conflict with such men.

Now, let me ask what are the facts in the case, known to every observing man in this city, nearly every man in the Territory? The fact is well known, that these same gentlemen, representing themselves so innocent and peaceful before this body and the public did, so long as there was hope of accomplishing anything, by it assume a boastful and threatening air, talking so loudly in their caucus as to be distinctly heard in the street, and announcing their determination to take this Hall, "peaceably if they could, forcibly if they must." Others of them declared to a merchant in this city, that "they would have the Hall if "it costs their heart's blood," and other similar rash and foolish expressions were made in the street. But the more calm and better judging portion, it seems, voted down these violent men, and would not allow them to do it. Meanwhile, this Convention went quietly on with business, attending to the work which their constituents sent them here to do. Whilst all this blustering was going on, they looked into this Hall and saw the determination that was manifested here, and one of their most distinguished leaders, was heard to say "you see they will not yield—you must "give up;" and Secretary CHASE said to them: "It is no use gentlemen; no man can "get into that chair." They then turned on their heel, went into the other end of the Capitol, and concluded to make out and represent themselves as quiet and much abused men; and visions of revolvers and bludgeons, and bowie-knives and Sharp's rifles, seem to have been swimming in the ex-Governor's brain from that day to this. It is amusing, almost contemptible in these men, after ranting and blustering as they have done, now to whine over the warlike disposition of this peaceable Republican Convention. It reminds me of one Falstaff, that used to bluster and boast very much of himself, and wherever he got frightened and run from a contest, he was always sure, in telling the tale, to make himself out a great hero, only overcome by overwhelming numbers all armed to the teeth.

I fancy I see the ex-Governor in the following passage from Shakspeare's King Henry IV:

"*P. Hen.*—What's the matter?

"*Fal.*—What's the matter? there be four of us here have ta'en a thousand pound this morning.

"*P. Hen.*—Where is it Jack? where is it?

"*Fal.*—Where is it? taken from us it is; a hundred upon our four of us.

"*P. Hen.*—What, a hundred men?

"*Fal.*—I am a rogue, if I were not at half-sword with a dozen of them two hours together. I have 'scaped by miracle. I am eight times thrust through the doublet; four through the hose; my buckler cut through and through; my sword hacked like a hand saw. * * * *

"*P. Hen.*—What, fought ye with them all?

"*Fal.*—All? I know not what ye call all; but if I fought not with fifty of them, I am a bunch of radish; if there were not two or three and fifty upon poor old Jack, then I am no two legged creature. * * * * * *

"*P. Hen.*— * * * Mark now, how a plain tale shall put you down. Then did we two set on you four; and, with a word out-faced you from your prize, and have it; yea, and can show it you here in the house; and, Falstaff, you carried your guts away as nimbly, with as quick dexterity, and roared for mercy, and still ran and roared, as ever I heard a bull-calf. What as slave art thou to hack thy sword as thou hast done, and then say it was in a fight! What trick, what device, what starting-hole, canst thou now find out, to hide thee from this open and apparent shame?"

There are other points in this speech which I would like to notice, if time would serve. Frequently throughout it, he seems disposed to draw a parallel between the Republicans in this Territory, and the Republicans in Kansas. He says:

"In Kansas to-day, if the truth were told, their Emigrant Aid Societies have peopled that country with a set of men armed with Sharp's rifles, armed with Colt's revolvers, armed with deadly weapons, &c."

Again, he says:

"Give this Republican party the prestige of power in Minnesota, and they will flood your Territory with the minions of their Emigrant Aid Societies, armed with rifles, &c."

And he keeps drawing the parallel, and says in reference to this, that the Democratic caucus had resolved not to give these Republicans any "food for fanaticism"—not to give the Republicans a pretext of Democratic wrong doings to make a noise about. I ask no bet-

ter statement, Mr. PRESIDENT. I am glad the ex-Governor has been willing to place himself and colleagues upon the same footing with his party in Kansas. The illustration is a good one. The Republicans in Kansas have fought in self defense. The Border Ruffians fought and shed blood there in a cowardly manner, when they were in the ascendant and had nothing to oppose them; but whenever the Free State men have stood their ground and showed grit in defense of their rights, the assailants have recoiled and made a great outcry and noise about Sharp's rifles and revolvers and revolutions, just as Governor Gorman and his friends have done. As long as the latter thought they could effect anything by it, they heralded it to the world that they would have this hall. But when the Republicans met them quietly, like men in the firm discharge of their duty, they backed off, and began to raise a hue and cry about arms and revolution. I thank the ex-Governor for presenting this matter so truly before his friends and the country. The disposition has been the same on the part of the Democratic party here that was manifested by the same party in Kansas. Notice the illegal voting! There, the Border Ruffians from western Missouri rushed in and told the people of Kansas to stand aside; and where they had power, drove the real people of Kansas from the polls. So it was with the Democracy on the first day of June, right here in the city of St. Paul; and so numerous and outrageous were the frauds practiced at the polls here, that even their own newspaper—as unscrupulous a sheet as it is—was compelled to chronicle the wrong as "shameful fraud." The same thing occurred also at St. Anthony, and at other precincts where they had the power and could proceed with impunity. But not having the same relative numerical force here in Minnesota that they had in Kansas, of course they could not go quite to the same extent. But just as far as they had the power to go, so far they went. I thank the ex-Governor again, for drawing the parallel in so fair a manner, between himself and his friends, and the Border Ruffians of Kansas.

I had thought, at one time, to review the ex-Governor's remarks in regard to the election of the members from St. Anthony, upon which he dwelt at considerable length. But one of these gentlemen, (Mr. SECOMBE,) having presented this case the other day with great clearness, I am relieved from that necessity. But the ex-Governor, alluded to the alleged connection of Judge Trumbull with the St. Anthony case. In reference to that matter, I would remark that I have seen in that party from time to time, a persistent determination to declare and send it abroad, that Senator Trumbull counselled the Board of Canvassers of Hennepin county in regard to the course they pursued. Notwithstanding this has been contradicted repeatedly by the St. Anthony *Republican*, and over and over again, contradicted by the Register of Deeds of Hennepin county, it has been still repeated and reiterated, as though some great advantage was to be gained by perpetuating that lie. But I will say here, Mr. PRESIDENT, if that be so—if Judge Trumbull was counselled, and he did give his advice in the case—perhaps there is no higher legal authority in all the Western or Northern States. I believe he is regarded as one of the clearest and soundest lawyers in the North West, and if he has given an opinion in favor of the course pursued by that Board, that, in my judgment, would strengthen the case wonderfully. But it seems that the case is sufficiently strong without the help of Judge Trumbull. But sir, I am authorized to say, and I do say, without fear of successful contradiction, that the whole story, from beginning to end, which these gentlemen have taken so much pains to publish and repeat, is all utterly without foundation, all false and untrue, from beginning to end. So much for that.

Now, sir, with regard to the Pembina case, the ex-Governor says:

"Sir, I care not from which side of the river the delegates are elected. Pembina is entitled to representation upon this floor, unless you can prove that there is no Seventh Council District."

Again, he says:

"If the Enabling act then changes the boundary of the county of Pembina, which I say it does not, that portion of the county still within the boundaries of the proposed State, yet more than two thousand miles square, of right claims the representation of the county, unless forbid by law."*

The ex-Governor has a fault of stretching stories sometimes, and it seems he has in-

"* In the revised edition of the Governor's speech this is made to read two thousand square miles—the other must have been a misprint.

dulged a little in regard to the area of a part of the county of Pembina; for there would hardly be found room for two thousand miles square between Hudson's Bay and the Missouri river.

A VOICE. Is it not two thousand square miles?

Mr. NORTH. Two thousand miles *square*, is the reading. I might think, that this might have been a mistake of the ex-Governor's, but such mistakes occur so often with him, that I am inclined to think it is in harmony with the rest of the speech, and not a mere misprint.

It would seem, for the first time in the history of this Territory, the certificates of election obtained by certain members of the body in the other end of the Capitol, purporting to come from Pembina County, came not from Pembina, but from the county of Nicollet. I am informed, by a gentleman familiar as well with this transaction as with former elections in Pembina, that heretofore, when their representatives and councillors have brought any certificates at all, they have brought them from the Register of Deeds of the county of Pembina. It seems they were in trouble. They wanted a full representation, and could hardly wait for, or dared not venture, to bring the certificates from the county officers on the western side of Red River, and so they had them purport to come from Nicollet County, for the reason, they say, that Pembina is attached to Nicollet County for judicial purposes.

But there is another very singular fact in this case. It is this: that these same delegates came from Pembina without any certificates, and before they are within a hundred miles of the Capitol, their certificates are here. They lie here two weeks before they are reported upon; and then they are reported upon several days before the delegates arrive! It is stated, in one of the city papers, by a gentleman well known in the Territory, and direct from Pembina, how the election occurred. I read the account from the St. Paul *Daily Times* of July 27th.

"ALL ABOUT PEMBINA!—By the arrival of Mr. B. T. Baldwin from Pembina on Saturday we are placed in possession of the actual returns of the Delegate election there, which we hasten to lay before our readers.

"Mr. Baldwin is one of the pioneers of the west, and an old resident of this city, so that his statements may be implicitly relied on as correct.

"Mr. Baldwin says, that the voters of Pembina city on the west side of the river, got together on the first Monday in June and drew up a ticket to be voted for on the east side of the river, and knowing by the provisions of the Enabling Act that the west side had no part in the election, the polls there were not opened.

"On the east side of the Red River he says there were two places of voting, and the ticket—Democratic of course and the only one in the field—was composed of four candidates, and ran as follows: Joseph Rolette, Jerome St. Martre, J. P. Wilson, and Joseph Veraere.

"Of these Joseph Rolette and Jerome St. Martre were both from the west side of the river, outside "the boundaries of the proposed State" and of the remaining two, J. P. Wilson, a resident of Minneapolis, was then on a flying trip to Sheyenne (three hundred miles from the election precinct) and had never been near Pembina in his life! Joseph Versere was a half-breed living on the east side—the only one of the ticket eligible to election.

"Mr Baldwin (a Democrat himself,) was present, but perceiving that a game of high handed fraud was being played, refused to participate; and threatened to "post" every man who became an accomplice in the crime.

"Well—the farce went on, and Mr. Baldwin ascertained at night from the "Judges of Election" that there had been only eleven [11] votes cast, all told!—and that five [5] of these came from Pembina city, on the west side. This would leave six simon-pure voters to elect four delegates, but now Gorman and his tools— Becker, Sherburne, Flandrau, Sibley, Brown & Co.—insolently claim six delegates—or precisely one delegate to every voter!

"The two extra men whom they have fraudulently summoned to the rescue of collapsing Democracy, are Jas. McFetridge, who is Custom House officer at Pembina, and who was Clerk at the bogus election the ridiculous details of which we give above, and a half-breed cousin of Rolette's. All these six are now sitting at the Democratic "Convention," to frame a Constitution for the Free People of Minnesota. To the truth of the above facts Mr. B. is willing to make affidavit.

"There—the particulars of this stupendous fraud which the Gorman rebels hoped would be hidden in the shadow of its own unexplored obscurity, are before the world. On these six is the whole force of the Revolutionists leaning for an apology, as without these, they would be—even admitting the other half dozen of their bogus 'members' to be simon-pure—in a helpless minority of eleven. A fair and candid statement is now before the people, and, without a comment, we leave all honest men to deduce their own inferences."

This was published in this city on the twenty-seventh of July, and it has not yet been contradicted in any material point. It seems then, that two of the Pembina delegation, without any election whatever, come in and claim seats and are admitted. Thus we see with what remarkable facility they can induce men to take seats in that body, to justify the proceedings of a minority, scraping up delegates and, fitting them out with certificates without foundation of right, to enact the farce of pretending to be the Constitutional Convention of Minnesota.

Let us look at it in the light of candor and fairness, and at their complaints in the case. They pretend to be grieved, that certain men have certificates and seats in this Convention, which they think they ought not to have; and what do they do? Without ever coming here and presenting a courteous, parliamentary claim, and contesting fairly the seats of these persons—without daring to meet them and make the issue, which has been invited by the St. Anthony members, they endeavor to noise it abroad and prove to the world, that great injustice has been done to them. And they think to be heard by the people in all this, notwithstanding the illegal votes they obtained; notwithstanding their outrageous frauds, that made even themselves to blush, by which a thousand illegal votes were cast here in this city; and passing over the Bassett case, wherein they ejected that gentleman from the Legislature some two years ago, and the case wherein Judge Vaughn was treated in like manner; and without thinking of the case of Mr. Howell, who was also ejected from the Council, on the ground of a mere clerical error, and with reference to which they have ever confessed, that it was the wickedest thing they ever did.

We say to them:

We hope, gentlemen, you will repent of your sins; but we also hope you will bear bear these things in mind, when you profess such a holy horror of tricks, and so strict an observance of law, and when you consider the case of the St. Anthony certificates, which were issued in strict conformity with the law, even as you understood it, up to the hour of election. These men who were so shocked at the proceedings in the St. Anthony case, themselves attempted a fraud in that very case. They attempted a trick to secure a certain amount of votes, and the election of a certain delegate. But when the tricksters are caught in their own trap, we here them whining about it.

The *St. Anthony Express*, the Democratic organ of the place, in an editorial article written prior to the election, holds the following language:

"It being the universally received construction in all parts of the Territory, of the Enabling Act, at least for the purposes of this canvass, that *each precinct is entitled to double the number of delegates in the Convention, which it has both of Representatives and Councillors in the Legislature*, St. Anthony should make her nominations and elections accordingly; else she might fail of having her due representation. Certainly such would be the case if she should only choose *Representative delegates*, while the precincts choose *Councillor delegates* in addition, and also secured seats for them. At the same time it should be borne in mind that the Convention, like any other legislative body, will decide the number, as well as judge of the qualifications of its own members; and that when assembled it may take upon itself to construe the Enabling Act to suit its own notion, caprice or convenience, without the remotest reference to what the people have thought or done in the premises. *The Convention, as regards its rules of action, or its organization, will be entirely irresponsible*, and if it should hold that only Representative delegates could be admtted to seats, the Councillor delegates will be compelled to retire. A thousand certificates of election, signed by a thousand inspectors of election, would not avail them. Would it not then be the part of wisdom to prepare for, or guard against whatever may happen? Would it not be the part of wisdom, and prevent misunderstanding and embarrassment, to designate or distinguish in some simple, plain manner the two classes of delegates, either as Representative or Councillor, on the tickets themselves? After such a precaution, it would be known who must retire, should the Convention, as is not at all improbable, put a construction upon the Enabling Act different from the popular construction. And thus much time and contention and many heart-burnings might be saved,"

In this article it is urged upon the people of that precinct to make a distinction in their nominations—to name some as Councillor, and some as Representative delegates; that there might be no question, when they came before the Convention, who should be entitled to seats. They so understood the law up to the time of the election. They so interpreted it in their organ before the election, and it was so understood afterwards; for even the

Express acknowledged that the Register of Deeds from Hennepin county might have acted honestly.

Now, I say, Mr. PRESIDENT, after so much noise about the matter, it is extremely ridiculous that men should give one interpretation of the law up to the time of the election, and then, when they get caught in a trap set for others by one of their own men, who immediately afterwards run away, and left it for others, as the *Express* intimated, "to haul his own chesnuts out of the fire"—should attempt to prejudice the whole Republican party on account of his and their own trick—I say, sir, it is not only extremely ridiculous, but it is a little contemptible.

But the organ says this Convention would be their own interpreters of the law, and would have the right to decide upon the qualifications of its own members. Then why did they hesitate? Why did they come into that door in a body, and in less than forty-five seconds depart from this Hall, and refuse to come in and let the question be passed upon by this Convention, as the only interpreters of the law, and in the only mode and manner in which it could be done?

They have said that we were even anxious to get rid of the St. Anthony delegates. Now in all conscience, if that be true, Mr. PRESIDENT, it shows as great a degree of fairness on the part of the members composing this Convention, as they themselves could ask. Why need they fear, then, to come in and present their case before this body? Aye, sir, they know too well, that there was fraud in that election. They know too well that the law and the interpretation are against them. They know, sir, that they can make a much better case, when they go and sit down together in the other end of the Capitol and have their say, all to themselves.

Now let us look at the manner in which they get admission into that body. According to the universal rule of parliamentary proceedings in such cases, those having certicates of election fair on their face, have *prima facie*, the right to come in and take their seats. Then the contesting parties come in as they think proper, and present their cases. This is the regular mode of proceeding. But the organization of the minority Convention was all irregular.

Such an organization was never seen before! Besides those having certificates, some ten or twelve persons, it is not known how many, came in. The whole of them present themselves without any roll call, to tell who or what they are. They produce nothing to show, authoritively on its face, that they have come there as members of the Constitutional Convention. Two or three days after their temporary organization, some of them hand in certain certificates. These certificates are kept from the time they are handed in up to the twenty-third of July, before they are reported upon.

Then all kinds of cases were reported upon in a mass—the cases of those who had certicates, as well as those who had none, of those who were present, and of certain ones who were absent, but whose certificates were mysteriously present. They report upon them all promiscuously. Then promiscuously vote themselves in. They just vote themselves in *en masse!* Why, sir, if the whole town of St. Paul had come in and asked to have been admitted, and if they had been admitted by that common vote, it would have been as much in legal, parliamentary form, as is their organization to-day.

But these gentlemen are so much opposed to tricks! Let us see how much they are opposed to tricks. In the first place they contemplated, they consulted together, and planned an organization in this Hall, at midnight, ending Sunday the twelfth of July. This was a thing proposed by those gentlemen, who pretend to be so very honest, and so much averse to trickery. We have the fact from authority which they themselves dare not deny, that they contemplated such an organization; and the members of this body were right when they concluded that such was their intention. When the proposition was made to the members of this party, to sign a paper pledging themselves to meet at twelve o'clock on Monday, and organize like men, they met this proposition with a sneer, and took French leave of those who offered it. Every sign and circumstance on their part showed that there was something behind the curtain, and every circumstance since has shown that they had determined to come in and organize at twelve at midnight. It was conceded on all hands, that no hour.

being "mentioned in the Enabling Act, the "Convention had a right to organize at any "hour of the day;" and in the action that we took, we merely said to them, "We will "not take advantage of your absence, but we "will see that you shall not take advantage of "ours." The members of this Convention had to depend upon themselves to prevent and protect themselves from the trick which the same party enacted once before in Ohio by an organization at twelve o'clock at night, when the present Governor of this Territory was the leader of the Democratic party of that State. Well, sir, when they saw that there was vigilance and determination here, they came up with all apparent fairness, and proposed to sign a paper to organize at noon. But this also, was by way of a trick, for they got a few names from us; and then getting together again into consultation, they retained it, and sent back an evasive resolution specifying no hour whatever. This only aroused still further the vigilance of the Republican members.

These men also who are so shocked at the idea of breaking the Sabbath, had a caucus meeting on Sunday night. That caucus continued in session till near midnight, consulting on schemes for the organization of this body. The next morning they profess to have come to a resolution in the matter, and send us a copy of that resolution in which they concurred in the proposition of the Republicans to organize at twelve o'clock, M. The clock of this Hall was turned back some ten minutes or more, by their direction. The clock being turned back, they rushed in here in a body, tumultuously, seventeen minutes before the time, and by a trick, endeavored to adjourn this body, and get away. Now I have just one passage to read from the speech of Ex-Governor GORMAN, on this point, where he is setting forth the honesty and fairness and good intention of the Democracy in coming into this Hall on that day—their very honest intentions! He says:

"Having proceeded to this point, the intention expressed in our caucus was, inasmuch as several of our members had not come in, knowing that, in consequence of the alarm, which had been sounded throughout the Territory, calling on the Republican Delegates to be here; they were here armed cap-a-pie, and that, having slept upon their arms they were expecting some great development. If upon calling the roll, it resulted, as we expected, that the Republicans had the majority, we intended, &c."

Here, Mr. PRESIDENT, is a precious admission by the Ex-Governor, that they expected they were in a minority. They knew this, in their councils. They knew it very well, and admitted and reported the fact to different members of this body, that they were legally in a minority, before coming into this Hall: and still these gentlemen, so honest, so much adverse to trickery, come in here and attempt to seize upon the organization, and by a trick, endeavored to coerce this Convention and compel the majority to receive their dictation. But they got frightened and run away instantly, and felt themselves, no doubt, in an unenviable position.

It is, indeed, quite amusing to notice the Ex-Governor, in four or five passages of this speech, when he expatiates on their determination that they would pursue a course of fairness; that they would not, under any circumstances, proceed to violence. It reminds me of the efforts of a drunken man to walk straight, the effort but exposing the more the weakness he would conceal. So it is with the Ex-Governor and his story.

Talk about honesty and fairness! Make us believe in the honesty and fairness of these men, knowing themselves in a minority, and coming in here, and attempting to adjourn this body, with less than forty members; for with all told, they had but forty-four; whilst the Republicans proceeded to organize with fifty-six.

—But, suppose they had the number to make a quorum, if that adjournment fails them, they are gone; and if that is the only hair on which they hang, it seems to me their condition is rather precarious; and hereupon the ex-Governor very adroitly says, "Well, "sir, we can give them some Parliamentary "tactics, but we cannot put brains into their "heads."

Here is an example of the honesty of men refusing to submit to, the rule of the majority and exulting to their own shame in their feeble tactics and contemptible tricks.

But what was their motive for wishing to adjourn? The ex-Governor tells us they were going to do this, and to do that. They were going to have the roll called, and all

having certificates should present them, and the thing was to be gone through in parliamentary order. Why did they not do it? Another gentleman tells us, they wanted the Convention to adjourn but for one day; another, for three days; and another, till their members could get in; and then, judging from their actions, they wanted us to adjourn for about two weeks—and actions speak louder than words.

A glance at the speech of one more gentleman in that body, and then I am done; and that is, the speech of the President of their Convention. The President of that body is well known in the Territory, and he has maintained a character for integrity and honor that has been quite equal to that of any gentleman there. But the speech, I must say, falls far short of what might be expected from such a source. He accuses us, to commence with, of gross incivility. I read from his speech the following:

"Sir, it strikes us, that never has a deliberative body evinced so great a want of civility—I might say of common decency—towards a portion, and a large portion of its members, as the body occupying the opposite end of the Capitol, taking their own account of their proceedings."

This is a pretty broad assertion, that the members of this body are not merely uncivil, but actually indecent. But let us see in what respect? He endeavors to point out some of the grievances he has to complain of, as follows:

"Well, sir, what did I find here on my arrival in this city on that Monday morning? I found a body of men in possession of the Hall of the House of Representatives, who are said to have occupied it—and they do not deny it—since midnight, as they were fearful of some danger, some violence, if they did not remain at their posts, and retain possession *vi et armis* of the Hall."

Mr. PRESIDENT, I take it upon myself to say that this allegation, come from what source it may, is wholly unauthorized and unfounded; and if the gentleman did not know that it was not true, he ought to have known it. He had been often enough informed in the case to know fully, that this Hall was not taken possession of at midnight, nor at any other hour of the night. He continues:

"This, sir, is in perfect keeping with the revolutionary state of things which has manifested itself in the Republican ranks for the last two years. The Democratic members of the Convention resort to violent proceedings for the sake of controlling the organization of that body!! I have too much respect for the members before me to believe for a moment, that any gentleman would think of pursuing any such course towards other members of the same body."

In regard to that, Mr. PRESIDENT, with the well known facts before this Convention, and the other Convention, or the Democratic caucus; with the well known facts before the people of this city, I have simply to say, that their denial by this gentleman is simply absurd—a denial that can amount to nothing in the face of facts so well understood. He says further:

"No, sir; from the beginning, their whole course has been in accordance with the precedents and order."

I think, on the contrary, that every step of these men has been without precedent and against order. He says:

"When they went into that Convention, knowing that several Democratic members were absent, they desired to adjourn, but if they had been voted down, unjust as I should have considered the conduct of the opposition, I for one should have submitted."

Unjust! to have voted against an adjournment, when more than ninety members were in attendance here! Was it unjust for us to proceed on the day of our assembling, to the discharge of public duties, because certain members from the other side of Red river had not arrived? Was it unjust that ninety delegates here should proceed to do their duty, like men, instead of running away, like boys? I should be ashamed of the citizens of this Territory, if they had not a more correct sense of public duty, than to consider it unjust in us, to stay here and do as we did, instead of running away after the Democracy.

Mr. SIBLEY next comes to the resolutions offered by the President of this body, and remarks on them as follows:

"The gentleman who presides over that body, (Mr. BALCOMBE,) for whom—although I have very little personal acquaintance with him—I have hitherto entertained much respect, has distinctly announced, in a resolution which he brought before that body, on Saturday last, that the Democratic party, so far as they are identified with this body, are opposed to the admission of Minnesota into the Union as a State, and that the object of our course has been to protract indefinitely, the time in which we shall be admitted as a State into the Confederacy. Now, sir, I say here, that I do not see how any man having any decent regard for truth, with

the facts before his eyes, could make that assertion. I stand here to-day to asseverate that there is not a man in this Convention, and there is not a man, to my knowledge, in the Democratic party, here or elsewhere—who is not in favor of the immediate admission of Minnesota into the Union, as a State. And I will refer gentlemen to the fact, that the Enabling Act was brought forward by a Democratic Delegate in Congress, supported by Democratic members, and that to the leaders of the Democratic party in Congress are we mainly indebted for the initiatory steps for our admission into the Union. This is a fact which the public record shows. It is a fact which will not be denied, and cannot be denied."

I have only to remark upon this, that the gentleman perfectly well understands another fact—a fact that is well known to the country, that the opposition in Congress to the Enabling Act, was Democratic opposition—opposition that came within an ace of defeating it, and for a time held it in suspense. It was held back in the Senate of the United States for a Know Nothing amendment, which was proposed and advocated by Democratic Senators, and adopted by their votes, which would have carried the bill over, if John P. Hale, of New Hampshire, had not seen the trick, and changed his vote so as to move to have it re-considered, and then gone to Northern Democrats and rallied them in support of it. Still many Democrats were against it, though most of the Northern Democrats were for it. Governor Seward, and other distinguished Republicans were consulted, and it is universally admitted that to John P. Hale, is due the credit of discovering the trick and defeating the Democratic-Know-Nothing opposition to the bill, the entire Republican force of the Senate voting for its passage.

It was agreed that the Republicans were to keep quiet, while the Democrats fought the battle. The Republican Senators—fourteen in number—sat there, all for the bill, whilst the opposition were divided. I ask, then, if it is just to claim the glory of its passage for the Democracy? In the House of Representatives it was mainly indebted for its passage to the support of the Republican members led on by Mr. Grow, who reported the bill.

In regard to the gentleman's astonishment at the allegation of the resolutions, I will briefly refer to some of the evidence upon which it might be predicated. The editor of the *St. Anthony Express*, who is one of their own party, openly declares in the streets—"Minnesota shall *not* come into the Union "now, unless she comes in Democratic." "What! are you not going to let the majority "rule?" "No!" he says, "if it is going to "put power into the hands of fanatics—and "the Republicans are fanatics." We have also evidence to the same effect from a higher source than the other end of the Capitol—a source that they themselves will regard as good authority. It comes from St. Peter, and St. Peter is almost as good authority as St. Paul. It is a resolution in the proceedings of a Democratic meeting published in the *Pioneer and Democrat* of to-day, and is as follows:

Resolved, That we cordially approve of the stand against fraud and injustice which the Democratic delegation have made, and that we exhort them to adhere to their position at all hazards, preferring rather that we remain as a Territory, than that the odious features of modern Republicanism shall be thrust upon us in in our fundamental law against the expressed will of the people."

Such, Mr. PRESIDENT, is the language of their own organs and their own men; and hence there is no occasion for the surprise of the President of the minority body, that the people should believe it is their intention, by their present course of conduct, to defeat the admission of Minnesota into the Union at this time.

It shows that the President of this Convention, when he drew those resolutions, was able to see what was working in the minds of the Democratic leaders—a thing they would like to conceal, but which is published openly elsewhere, and the organ in this city has not sagacity enough to see how it exposes them.

The gentleman refers to the Pembina case, and says:

"Now, sir, I cannot conceive how, with any regard to justice or precedent, that body of Republicans could ever have taken the position, that the Pembina delegation were to be excluded from the Convention.

I am as much surprised at that, sir, as at any other thing in the whole speech; and it the more surprises me, because that gentleman has so recently changed front upon that question. This change must have come over him since this Convention organized. I say so, because I can hardly think it probable that he could have changed his opinion

so suddenly before he came to this place; for I had occasion to know, but a few days before he came here, from his own lips, that his opinion then was the very reverse of that I have read. I confess, it is wholly inexplicable to me, that the gentleman should express his astonishment, that any person shall think just as he thought, less than a week before.

I do not like, Mr. PRESIDENT, in these remarks, to call in question the statements of any gentleman of that body. I do not like to be placed under the necessity of contradicting any man. But when these gentlemen take it upon themselves to accuse every member of this Convention with a want of courtesy, and everything that characterizes the gentleman, they must not complain if we take the trouble to contradict them, when we know them to be in the wrong. I do not like to charge dishonesty upon any man. I would gladly think it all a mistake. But there is too sad a proclivity to mistake around us. I will say then, that the examples before us show what power there is in a bad cause to make men change front and position, and to assert things which they would not do for their lives under ordinary circumstances. I really hope we shall never be so unfortunate as to get into such a position as to allow those influences to have such an effect upon us.

Mr. COGGSWELL. I move to lay the resolutions upon the table.

The motion was agreed to.

And then, on motion of Mr. FOSTER, (at five o'clock and ten minutes) the Convention adjourned.

TWENTY-FIRST DAY.

WEDNESDAY, AUGUST 5th, 1857.

The Convention met at nine o'clock, A. M.

Prayer by the Chaplain, Rev. E. D. NEILL.

The journal of yesterday was read and approved.

REPORTS.

Mr. HOLLEY from the committee on Amendments and Revision of the Constitution made the following report, which was read a first and second time, and laid upon the table to be printed, viz:

"SECTION 1. The Legislature may, by a vote of two-thirds of the members of either branch, propose amendments to this Constitution, which proposed amendments shall be published in at least one newspaper in each county of the State, where a newspaper is published, for three months preceding the next election for Representatives to the Assembly, and at such election shall be submitted to the people for their approval or rejection; and if a majority of the votes cast at such election for, and against, be in favor of such amendments, they shall become part of this Constitution. When more than one amendment shall be submitted at the same election, they shall be voted upon separately.

"SEC. 2. Whenever two-thirds of the members of both branches of the Legislature shall deem it expedient to revise this Constitution, they may call a Convention for that purpose, making by law all needful provisions relative to the same.

"SEC. 3. At the regular election for Representatives, in the year 1870, and every twenty years thereafter, the question "Shall the Constitution be revised?" shall be submitted to the people, and if at such election a majority of the votes cast, for and against such proposition, shall be in favor of revision, it shall be the duty of the Legislature to make the necessary laws providing for the assembling of such Convention."

Mr. MANTOR from the committee on Engrossment reported back report No. 12, on State Officers other than Executive, as correctly engrossed.

Mr. FOLSOM from the same committee reported back as correctly engrossed, report No. 8, on the Legislative Department.

BANKING, &C.

Mr. COLBURN from the committee on Banking and Corporations, other than Municipal, to whom was recommitted report, No. 5, made a report, recommending the following amedments to the report:

"Amend section one, by adding thereto the words 'nor shall any such law take effect until the same shall have been submitted to a vote of the people at some general election and shall have been approved by a majority of all the votes cast on that subject, at such election.'

"Amend section two by inserting in the third line after the word 'require' and before the word 'security' the words 'ample collateral' and striking out all between the words 'Treasurer' in the fifth line and the word 'and' in the eleventh line.'

"Amend by striking out section four.

"Amend section seven by substituting the word or' for the word 'and' in the second line."

(For original report No. 5, see proceedings of July twenty-fourth.)

Mr. SECOMBE. I would enquire what course that report would take under our rules?

The PRESIDENT. According to usual parliamentary rules, the report will have to be considered in committee of the Whole, and the amendments then acted on.

Mr. SECOMBE. Must the report be laid ever and printed under the rule?

The PRESIDENT. It need not be, it is in order to move to refer it to the committee of the Whole.

Mr. SECOMBE. I make that motion.

The motion was agreed to.

Mr. BATES. I now move that the Convention now resolve itself into the committee of the Whole upon the report upon Banking and Corporations, other than Municipal.

Mr. WILSON. I hope we shall not go into committee upon that subject to-day, but that we shall have the amendments printed, so that every member of the Convention may look at the amendments recommended by the committee.

Mr. BATES. These amendments are not very lengthy. There is only one additional clause recommended, and the balance of the report are recommendations to strike out what already exists in the report. It is not worth while to have the report printed. That will cause unnecessary delay.

Mr. COLBURN. I think there will be no difficulty in understanding the report. The amendments recommended are very simple, and it does not seem to me worth while to have them printed. I hope the Convention will go into committee.

The motion of Mr. BATES was agreed to, and the Convention accordingly resolved itself into committee of the Whole, (Mr. STANNARD in the Chair) on the report on Banking and Corporations, other than Municipal.

Section one was read as follows:

"Corporations for Banking purposes, with the necessary powers and privileges may be formed under general laws, but shall not be created by special enactment."

The first amendment recommended by the committee was to add to section one the following:

"Nor shall any such law take effect until the same shall have been submitted to a vote of the people at some general election, and shall have been approved by a majority of the votes cast on that subject at such election."

Mr. SECOMBE. I move that section one, with the amendment recommended by the Standing Committee be adopted by this committee.

Mr. THOMPSON. We are in committee of the Whole and acting upon the report of the Standing committee, and the proper motion would be that the committee rise and report back the report with a recommendation that the amendments be adopted.

Mr. SECOMBE. That was not the nature of my motion at all.

Mr. THOMPSON. Then I misunderstood the gentleman.

Mr. SECOMBE. I wish to have the report open to discussion on each section. This report has never been discussed to any considerable extent in this committee. The only provision which came before the committee, when it was under consideration before, was the second section. After a slight discussion upon that, the committee rose and the report was recommitted. My motion was that the committee now take action upon the first section, and the recommendation of the standing committee to amend it, and that the amendment be concurred in by this committee.

The CHAIRMAN. The Chair understands that if this special report of the standing committee was accepted by the Convention, the amendments proposed by the standing committee become part of the bill and subject to amendment, and debate as an original bill.

Mr. SECOMBE. Has the report been accepted?

The CHAIRMAN. The chair does not know how it could have got upon the general orders, unless it was accepted by the Convention.

Mr. SECOMBE. The only action upon it was to refer it to this Committee of the Whole.

Mr. THOMPSON. I supposed that when the Chairman made the report, and it was accepted by the Convention, it would occupy the same position in the committee of the Whole that the original report did, and that by a motion that the committee rise and report the report back with a recommendation that it do pass, we adopt the amendments recommended.

Mr. COLBURN. There was no motion made to accept that report, nor do I understand that it is necessary when a report is

made to the Convention, that a motion should be made to accept it. If the Convention receive the report and refer it in any manner, that is equivalent to accepting it. Though not formally accepted, I think the Convention did accept it by referring it.

The CHAIRMAN. The opinion of the Chair is that this report could not have been upon the general order, and referred to the committee of the Whole, without virtually having been accepted by the Convention.

Mr. SECOMBE. It was specially referred.

The CHAIRMAN. The Chair is now, for the first time, informed by the Secretary that it was by a special motion that this report was referred to the committee of the Whole. If such is the case, the report stands in a different position from what it would have occupied under ordinary circumstances, and it is before the committee for their specific action.

Mr. BALCOMBE. I hope that the committee will not rise at present, but that it will take time to investigate this subject, and thoroughly discuss the many important features connected with it. The committee of the Whole is the proper place for offering amendments and for general consultation over the subject matter.

Mr. SECOMBE. I would inquire if the motion I made was in order?

The CHAIRMAN. It was, and is now before the committee.

Mr. SECOMBE. The standing committee upon Banking, to which this matter was re-committed, after considering the subject in all its lights, have come to the conclusion to change somewhat the report and the policy to be pursued by this Convention, so far as their recommendation goes, upon the subject of Banking. The report, as it originally stood, provided merely that corporations for banking purposes, might be formed under general laws, and that they should not be created by special enactment; and then provided what should be the basis of those laws, without providing that the banking law should be submitted to a vote of the people for their approval. And Mr. CHAIRMAN, the reason that was urged for pursuing that course was this: The committee were unanimously of opinion that the people of the proposed State of Minnesota were desirous of having banking corporations established, and that they were desirous of having them established immediately, without any unnecessary delay but at the same time that they would inquire imperatively that that system should be guarded in the strongest manner. They therefore at first proposed to the Convention, that the Legislature should have power to pass a general banking law, and that they should be required under the provisions of that law, to provide for the registration and countersigning of bills, and to provide for the security of those bills in a certain specific manner, so that the people looking upon the provision of the Constitution, should be able to see that the Legislature had it not in their power to give them a wild-cat system.

The benefit to be derived from that plan was, that there would be no unnecessary delay. The first Legislature might pass a banking law, and banks might be instituted immediately without waiting for a popular vote. But upon a reconsideration of the matter, the Committee, as I said before, determined to alter their plan, and to provide that while corporations for banking purposes might be formed by general laws, and not otherwise, yet that these general laws should not go into effect until they had been submitted to a direct vote of the people, and then only upon their being approved by a majority of the votes cast upon that subject. And at the same time, as the people were to have the right to pass upon the banking laws, your committee concluded to change the policy in regard to requiring a specific security to be given, and to substitute in the place of the specific security provided for in the first report, that there should be ample collateral security required,—leaving it for the Legislature, in the first place to provide what, in their wisdom, would be ample collateral security, and then leaving it for the people to determine whether or not the Legislature had provided what they were willing themselves, to consider ample security.

For one, I was not particularly in favor of the change. I acquiesced in it however, and have no great objection to it, because it is left with the people to determine whether or not the Legislature have complied with the requirements of the proposed section second, and have given them ample security. I

would not take back one word I said the other day, in committee, in regard to the most stringent rules being adopted upon the subject of banking. But taking the ground that the people can determine that matter for themselves, I hope the recommendation of the committee upon Banking, in respect to section one particularly, and in connection with section two, will be adopted by this committee, and recommended to the Convention, because I believe it will make a perfectly safe system, and one which the people will approve of and adopt as safe.

Mr. GALBRAITH. I would enquire whether this is in effect the Wisconsin system.

Mr. SECOMBE. It is not. There is this difference—the Wisconsin system provides that any Legislature may submit to the people first, a proposition whether or not they wish any banks; and if a majority of the people vote in favor of having banks, that then the Legislature may pass either a general banking law, or they may grant special charters, but that none of those laws or charters shall take effect until they have again been submitted to a vote of the people—thus requiring two votes of the people. We do not propose to submit the question in the first place, whether the people want banks, and in the second place we do not propose to allow the Legislature to grant special charters.

Mr. COLBURN. As chairman of this committee, it may be expected that I should make some explanation of this matter, but as the gentleman from St. Anthony has kindly volunteered to relieve me from that duty, it will only be necessary for me to express my own views. I was not, I am not now, specially in favor of the amendment proposed to section one. I did not however dissent from the views of a majority of the committee.—When this subject was before the committee of the Whole before, I expressed myself against submitting this question to a vote of the people, and upon the ground that I am satisfied that the people of the Territory are desirous of a banking system. Still it was thought by a majority of the committee that it would be better, whatever law might be passed by the Legislature, to submit it to the people before it should go into effect. It was thought that a law thus submitted to and approved by the people, would go into operation in such a manner as to give greater confidence to the people; and not only to the people of Minnesota, but to the people of other States, and that the paper or currency issued under that system would have a better credit.

I am not particular whether that amendment be adopted or not. I have but little feeling in regard to the matter. If that amendment is adopted, the committee will see that it will be necessary to change, to a considerable extent, the following sections. It seems to me proper that this committee should first decide upon the proper amendment to section one, because the balance of the report, as we have proposed to amend it, is based upon the amendment to the first section.

Mr. GALBRAITH. In looking over the different banking laws in the constitutions of the different States, none have struck me so forcibly as the Wisconsin system, and from all I can learn of the workings of that system, I am inclined to believe that it works as well in practice as it appears in theory. And here I would say that I think the committee have done well in not recommending that we should in the first place, submit to the people the question whether they will have banks or not. That seems to be, in the Wisconsin system, a matter of surplusage. The Legislature can, without submitting that question, pass a general banking law, and then they can submit the whole question at the same time. In the banking law they can also determine whether they are in favor of banks or not, and whether the system devised by the Legislature is a good one, and one that will protect the bill-holders especially. It is right that in the Constitution we should at least give the Legislature power to create banking corporations. But there should be some safeguard, and that is secured by submitting the law to the people for ratification or rejection. The good sense of the people, who are directly interested in the matter, expressed through the ballot-box, will decide whether the system is a good one or not. It is there fore my opinion that the committee have hit upon a good amendment, and I shall vote for it cheerfully.

Mr. CLEGHORN. I think that the first section is a complete legislative provision, in itself upon this subject of banking, and I

therefore move that all after the first section be stricken out.

Mr. COLBURN. The gentleman will observe by looking over the report, that some portions of it refer to the other corporations then banking, though the first section refers only to banking corporations. I hope the whole report will not be stricken out with that exception, because if it is, it will cut off everything but banking corporations.

The CHAIRMAN. The motion of the gentleman from St. Anthony (Mr. SECOMBE,) has preference.

The question was then taken, and the amendment to the first section was concurred in.

"SEC. 2. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of State, of all bills or paper credit, designed to circulate as money, and require security to the full amount thereof, to be deposited with the State Treasurer, in United States Stocks, or in interest paying stocks of States in good credit and standing, to be rated at ten per cent. below their average value in the City of New York, for the thirty days next preceeding their deposit; and in case of a depreciation of any portion of such stocks, to the amount of ten per cent. on the dollar, the bank or banks owning said stocks, shall be required to make up such deficiency by depositing additional stocks; and said laws shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of transfer, and to whom."

The recommendation of the committee is to amend section two so that it shall read as follows:

"SEC. 2. If a general banking law shall be enacted, it shall provide for the registry and countersigning, by an officer of State, of all bills or paper credit, designed to circulate as money, and require ample collateral security to the full amount thereof, to be deposited with the State Treasurer: and said law shall also provide for the recording of the names of all stockholders in such corporations, the amount of stock held by each, the time of transfer, and to whom."

Mr. BALCOMBE. I move to strike out the whole of section two. I make the motion for the reason that in the first section we propose that a general banking law shall be formed by the Legislature, and submitted to the people, and then in this second section we attempt to dictate to a great extent, what that law shall be. That, I think, is unnecessary. If we are going to leave this matter to the Legislature and to the people, let us leave the whole of it, in all its minutia, to the Legislature, and to the people. The subject contained in the second section may be the very one upon which the people will be divided; it may be the very one upon which there may be a division of feeling, sentiment and action, and the people will desire to have a voice in that matter. We ought not to attempt to frame a part of a banking law, and leave the other parts to the Legislature and the people.

I therefore hope section four will be stricken out.

Mr. CLEGHORN. I believe my motion, which I have modified so as to include only sections two, three, four and five, is first in order.

The CHAIRMAN. The first question is upon the motion to strike out those sections.

Mr. SECOMBE. I hope the motion will not prevail. The gentleman from Winona is willing to leave the whole matter to the Legislature and the people. Well, Mr. CHAIRMAN, he might as well say that he is willing to leave the whole matter without any restriction whatever—even without the first section—to the Legislature and the people.

Mr. BALCOMBE. That is the whole subject matter.

Mr. SECOMBE. Very true, but without any provision whatever in the Constitution, I think the Legislature would have the right to grant banking charters, and charters for other corporations, and we might say we would leave the whole matter to the people, because the people are going to approve of the action of the Legislature, and if they do not want banks, or if they do want banks, they will choose Representatives who will or will not incorporate them. Now I believe the people want banks, but they want safe and secure banks, and that we ought not to leave it to the Legislature so that they may go to work at their first session and pass a general law that in all human probability will be unacceptable to the people. If the matter is left simply upon section one, the first, second, and every subsequent Legislature may pass a law which will be voted down every time by the people; and the tendency will be to their doing that very thing. I am not one of those gentlemen who believe in the total depravity of Legislators, but it has been very well said in this Convention, and in

this committee, that the Legislature is liable to to be influenced, and it is very well known that the Legislature of this Territory has been so influenced. It is well known that our Territory has been covered over with charters of every kind and description. Now I am not willing to leave it for a future Legislature to keep the people out of a good and safe banking system by having it in their power to submit to the people every year a wild cat concern, and no other. I want the Legislature bound to make a safe banking law, and one which in the opinion of this Convention, will be acceptable to the people.

The provisions of section second are very simple. There are merely three requirements which will be binding upon the Legislature. The first is, that they shall provide for the registry and countersigning of bills by an officer of the State. Now is there any gentleman in this Convention who supposes for a moment, that the people will not require that those bills shall be registered and countersigned? The next provision is, that the Legislature shall require ample collateral security for the bills which may be put afloat. Is there any gentleman in this committee who supposes that the people will not require that? The third provision is, that the names of the stockholders, the amount of stock held by each, the time of transfer, and to whom, shall be recorded. Is there anything unreasonable in that proposition, which the people of the proposed State will not require? It seems to me not. Then if there are propositions which no gentlemen here will object to, which no gentleman here would claim that the people would object to, but on the other hand require, I say it is right and fair to the people of the proposed State who wish banks, to leave it in the power of the Legislature to send out to them every year a law which, in all probability, will be refused, and thus deprive them of banks?—for that is the only way in which they can get them? They can grant no special charters, but only pass a general banking law. At the same time it leaves it to the Legislature in their wisdom, subject to a ratification by the people, to provide this system, and what security shall be considered ample. The other provisions of section two we propose to strike out.

Section three provides that no law shall be passed, sanctioning in any manner, directly or indirectly, the suspension of special payment, by any corporation issuing bank notes of any description. Now is there any probability that any respectable portion of the people of the State of Minnesota would object to that provision? or that they would not absolutely require such a provision, as well as the provisions of section five?

Now I hope we shall show to the people of Minnesota that we are not going to allow the Legislature to pass charters, and pass general laws for wild cat concerns, such as have flooded the Western world. I hope the idea is not to be sent out to the people, that the first Legislature will be allowed to flood this State with swindling concerns—because under the first section, without further restrictions, the Legislature can pass a banking law, and get the people thereafter to favor it, which may operate greatly to the detriment of the people of the State of Minnesota. I am opposed to that, and I hope the recommendation of the committee will be adopted.

Mr. BALCOMBE. The gentleman from St. Anthony is disposed to beg the question. He takes it for granted, if this subject is left at the disposal of the Legislature, that as a matter of course, a banking system will be presented to the people which will partake of the nature of the wild-cat system. At the same time he contradicts himself, by saying that it is the undoubted wish of the people, that the restriction which he proposes to put into the Constitution, should be put upon banking corporations, and at the same moment he asserts that in all human probability there is not a gentleman upon this floor who is not in favor of the restrictions. Now if every gentlemon upon this floor is in favor of those restrictions, and the people are in favor of them, I would ask whether it is not reasonable to suppose that the first Legislature would insert those restrictions in any law they might frame upon the subject? Is it not highly probable? I am disposed to believe that you could not elect a Legislature in this proposed State, which would not impose most of those restrictions upon banking corporations in a general banking law. Were I, in the Legislature, passing upon this subject, I should certainly insist upon the restrictions which are contained in this section as pro-

posed to be amended by the committee, and I believe the people would demand it. At the same time I believe there is a minority, and perhaps a respectable minority in the Territory, which would oppose many of those restrictions.

But, sir, my principal objection to this matter is this: If we are going to establish any part of a banking system in the Constitution, let us go the whole length, and make it a complete system; let us go into the minutia, and not do business upon a half-way system. The gentleman takes it for granted, in his argument, that the Legislature will frame some wild-cat system which will be rejected by the people. I do not suppose any such thing. I believe the people will feel the necessity of having banks, and that they will make it incumbent upon the Legislature to recommend such a system as they themselves will adopt; and that no Legislature in our State will dare to recommend any other, after the example we have had in the States of Wisconsin, Illinois, Iowa and other States. I take it for granted that there is a general disposition to adopt the present banking system of Wisconsin, and I believe our first Legislature would recommend that system substantially, and would not dare to do otherwise.

Mr. COLBURN. I hope the motion of my colleague will not prevail. So far as the second section is concerned, I do not know that there is any particular objection to striking it out. I have no particular feeling in regard to it, but the third section should be retained in the Constitution. It provides that no law shall be passed sanctioning, in any manner, directly or indirectly, the suspension of specie payment by any corporation issuing bank notes of any description. It seems to me that such a provision should be in the Constitution, where it cannot be repealed. If it were only incorporated into a general banking law passed by the Legislature it might be repealed, if sufficient influence could be brought to bear upon the Legislature, without arousing suspicion. It might be repealed without the general attention of the Legislature being called to it. It seems to me that no law sanctioning a suspension of specie payment should ever be passed, and it certainly can do no harm to retain this section in the Constitution, and then there will be no danger of any attempt being made in the Legislature to pass any such law. Such a clause would commend itself to the minds of the people, and even if the Legislature should violate it, the people would then have a veto power upon the action of the Legislature. This would also serve as a guide to the Legislature in passing a general law, although I do not doubt that almost any legislative body would incorporate such a provision into any system. There is nothing in that section which the people will disagree upon.

That part of the second section which has been stricken out, would undobtedly have caused a great diversity of opinion and feeling, and it would have been impossible to unite the feelings of the public upon those provisions. Therefore it was well to strike it out. I think the remainder might be retained, and I feel anxious that it should be.

Mr. PERKINS. I hope the second section will be stricken out.

Mr. COLBURN. The motion is to strike out section two, three, four, and five. I call for a divison of the question.

Mr. BALCOMBE. A division of the question will bring the Convention to a vote first upon striking out section two.

Mr. PERKINS. I am opposed to incorporating section two into the Constitution, and I think the other sections might as well be stricken out too. I am opposed to section two, in the first place, because it is matter of legislation. I am opposed to any species of legislation being incorporated into the Constitution. The objection is just as good now as it was at the commencement of our session, when so much was laid upon that subject. The practice should be discarded and discountenanced. In my opinion the Legislatures of the country, and especially that of Minnesota, are the best abused bodies now in existence. I should come to the conclusion, judging from what has been said upon this floor, that our Legislators are a band of conspirators to rob the treasury, and crush out the liberties of the people. Such seems to be the opinion of many gentleman here, and if I were of their opinion I should be in favor of incorporating into the Constitution a provision declaring that a Legislature should never exist

in the State of Minnesota; that all laws should be framed by this Convention and be contained in this Constitution. I do not, however, look upon the Legislature in that light. I look upon a Legislature generally, as being just as honest a body of men as this Convention, and no more desirous of thwarting the good interests and welfare of the people. I am of opinion that if this matter is left to the Legislature under one general article, that the rights and liberties of the people will be just as much respected and guarded as they will be by this Convention. I know there is such a thing as corruption creeping into legislative bodies. The experience of the past shows that. And I know too that selfishness and corruption creeps into all bodies. I do not think the Legislature is the worst body that ever existed.

Then I say it is not an argument in favor of this legislation being introduced into the Constitution, that legislators are sometimes unwilling to deal fairly with the people. I claim that the Constitution, notwithstanding that objection, should declare only fundamental principles, and that those matters which belong properly to the Legislature, should be referred to them. If I understand the gentleman from St. Anthony, (Mr. SECOMBE,) he said that though the people were anxious for a banking law, yet, if this section was stricken out, the Legislature might defeat the will of the people. I have no doubt but that is the case. But if the Legislature have any desire to defeat the will of the people in this respect, they can do it under the report as it now stands, as well as they could if all were all stricken out but the first section. I do not understand that this article makes it imperative upon the Legislature to pass a banking law. The first section declares that they may do so, and the second section says, "*if* a general banking law shall be enacted," implying that it is the discretion of the Legislature to enact, or refuse to enact such a law. They may, by refusing to act on the subject, defeat the will of the people just as well as they can, by throwing before the people, year after year, general banking laws which may and will be refused by the people.

It seems to me, too, that the gentleman from St. Anthony betrays a great lack of confidence in the wisdom of the people in this regard. It seems to me that if the Legislature pass a law and submit it to the people, and the people themselves adopt it, no fault can be found either with the Legislature or the people themselves. I apprehend that when a law is submitted to the people of the State they will be wise enough to know how to vote upon it; and know what is their best interest at the time, and what they require.

Mr. BALCOMBE. The Wisconsin system of banking is now looked upon as the best system in this country. It is *the* system, in my estimation, and I believe it has become so in the general estimation of the people, and it is the system which will eventually be adopted in the State of Minnesota. That system was recommended by the Legislature, and adopted by the people. It was recommended by the Legislature, under the following section of their Constitution:

"The Legislature may submit to the voters at any general election, the question of 'Bank or no Bank;' and if at any such election, a number of votes equal to a majority of all the votes cast at such election on that subject, shall be in favor of Banks, then the Legislature shall have power to grant Bank Charters, or to pass a general banking law, with such restrictions and under such regulations as they may deem expedient and proper for the security of the bill-holders;

"*Provided*, That no such grant or law shall have any force or effect until the same shall have been submitted to a vote of the electors of the State at some general election, and been approved by a majority of the votes cast on that subject at such election."

There, the Legislature had the choice either to grant special charters or pass a general banking law. Now which did the Legislature choose? They passed a general banking law and submitted it to the people.

Now I am disposed to leave this subject just as the Wisconsin Constitutional Convention chose to leave it there, and I would be willing to take the language of their Constitution and insert it, word for word, into our Constitution and there drop the subject. As the result of their course, they have the best banking system in the United States.

Mr. SECOMBE. I desire that this matter may be thoroughly considered. The gentleman from Winona says I distrust the Legislature and the people; that I take it for a certainty, or a matter which is to be granted upon all hands, that the Legislature will pass a

wild-cat system of banking. Now, Mr. CHAIRMAN, I have no other guide for the future than the past; and I have lived too long in the Territory of Minnesota, and observed the workings of the Legislature of the Territory of Minnesota, to have any other feeling in regard to that Legislature than a feeling of distrust; and I call the gentleman from Winona (Mr. BALCOMBE,) to bear me witness that the past legislation of this Territory upon the subject of corporations, will justify that distrust. I have seen, and the gentleman from Winona has seen, men elected to the Legislature of this Territory upon the sole ground of their opposition to a special incorporation in this Territory. Elected, I say, solely to oppose it, there being no other question in issue; and when the time came that they were to vote in the Legislature, they wilted like grass before the scythe, and voted against every principle, for which they were elected to vote. I have seen, and the gentleman from Winona has seen, the public press of this Territory that has spoken for years in the strongest terms against a certain act of incorporation in this Territory, and when the moment of need came, those who had charge of the press, deserted their posts, and left the Territory, and the voice of that press has come out in opposition to the very thing they had advocated for years. I have seen, and the gentleman from Winona has seen, the executive officer of this Territory, who has a part in legislation, after he has protested in every shape possible, in all the language he could command, against a certain act of incorporation and influences connected with it, when the time has come for him to act in the matter, get down upon his knees in the dust, eat his own words, and show himself up as an instance of the power which has been brought to bear upon the Legislature of the Territory of Minnesota.

Now then, I say, in the light of these examples, it is the duty of this Convention, to guard in the strongest terms against future results similar to those which have occurred in the past.

The gentleman from Rice county (Mr. PERKINS,) also says, that I distrust the people. I do not distrust the people as a general thing, but in this particular instance I say that the people may be forced by the Legislature to act upon the principle that half a loaf is better than no bread. I say that the people of this Territory, being anxious for and desirous of a banking system, may be called upon by the Legislature, either to vote for that which they themselves know is not safe, or to vote against having any banks at all.

The influences which are brought to bear upon Legislatures do not pervade, I hope, to any extent, this Convention. This Convention has not the power of granting charters for banks, nor of passing banking laws. I have not heard of any money being circulated here to influence any member of this Convention. I think that no such thing ever will be attempted. But if the Legislature has sole control of this matter, without any restriction whatever, I believe we are not safe from the influences which have operated upon past Legislatures, and the result will be that the Legislature will send out to the people a system which they will either be obliged to vote down, because they disapprove of it, or be obliged to accept, rather than to have no system.

The question was taken on the motion to strike out sections two, three, four, and five, and it was lost.

The question was then taken on concurring in the amendment recommended by the standing committee, to section two, and it was concurred in.

The next amendment recommended by the committee, was to strike out section four, which is as follows:

SEC. 4. The stockholders in every corporation or association for banking purposes, issuing any kind of paper credits to circulate as money, shall be individually responsible for its debts and liabilities of every kind.

Mr. SECOMBE. I move that this committee concur in the recommendation to strike out that section.

Mr. COGGSWELL. I do not rise for the purpose of making a speech in regard to this matter, but I wish it distinctly understood that so far as I am concerned, I am totally opposed to striking out that section.

The amendment was concurred in.

The next amendment recommended by the committee, was to strike out the word "and" and insert "or" in section seven, which reads as follows:

SEC. 7. Dues from corporations, other than banking, shall be secured by such individual liability of the corporators, and other means as may be prescribed by law.

Mr. SECOMBE. I move that that amendment be concurred in.

Mr. MORGAN. I would take this occasion to ask the committee to explain the meaning of that section, and how it is understood that it is to be applied.

Mr. COLBURN. I presume the gentleman understands it as well as the committee. He understands the use of the English language as well as any one here. "Dues from "corporations, other than banking, shall be "secured by such individual liability of the "corporators, and other means, as may be "prescribed by law." Now there may be corporations formed—as is done in some States—where it may be proper to make the corporators individually responsible for all the labor performed for the corporation, so that the laborers, if it becomes bankrupt as a body corporate, will be safe. There are many cases of that kind arising, and it is not unfrequently the case that when special acts of incorporation are granted, the individual members of the company are held responsible, to a certain extent, either for labor or materials, or both. In Massachusetts you will find repeated instances of that kind, where special charters are granted. Section six provides that in certain cases, the Legislature may grant special acts of incorporation; or in other words, if they are of opinion that the objects, for which the special act is asked for, cannot be attained under general laws, they may grant a special charter. In cases of that kind it may be necessary to secure dues from that corporation in some particular manner, either by making stockholders individually liable to a certain extent, or by providing some other means. This section leaves the Legislature to exercise that power in such cases according as circumstances may require. We recommend to strike out "and," and to insert "or," so as to leave it with the Legislature to make the corporation liable in such way as they think best.

Mr. MORGAN. There may be cases where it would be proper for the Legislature to make some peculiar provision to secure the payment of the dues of a corporation, but at the same time this section makes it necessary, in every charter granted for corporations hereafter, for the Legislature to provide either that the stockholders shall be individually liable, or some other peculiar security for the payment for debts, which have not existed heretofore. If we look into our statute book, we will find a great number of objects for which acts of incorporation have been granted, such as the building of railroads, the building of bridges and a great many other things, in which acts of incorporations there are no peculiar provisions for the security of the debts of those corporations; and this section seems to require that all corporations hereafter shall be required to make some peculiar and extraordinary provisions for the payment of debts, which have not existed heretofore. There are no less than six corporations for building bridges across the Mississippi, within ten miles of this place, and a great many more above the Falls of St. Anthony. There are a great number of charters granted for building bridges across other streams; several for plank roads, and for other purposes, none of which contain such a provision. Now to apply this provision to all incorporations hereafter, will be unfair and unjust to certain sections of this Territory.

Mr. SECOMBE. In reply to the gentleman, I will say that the general rule under this article is, that no special charter shall be granted for any corporation; consequently the general rule is, that there is a general law. Therefore the provisions which might be adopted by the Legislature for securing dues of corporations, would be general provisions. If any special charters are granted, it is true there might be some special provisions in those special charters for securing dues from those special corporations.

Mr. MORGAN. I move to strike out the word "shall" from the first line of the section, and insert the word "may."

The CHAIRMAN. The first question is upon the motion to concur in the recommendation of the committee to strike out "and" and insert "or."

The amendment was concurred in.

Mr. FOSTER. It seems to me that this whole section is superfluous, and if you intend to make a Constitution clear of unnecessary verbiage, I think we had better strike it

out. It, after all, leaves with the Legislature a power which they would have at any rate, if this section were not in the Constitution. It amounts to nothing else. "Or other means "as may be prescribed by law." The Legislature may prescribe something merely nominal—twenty-five dollars deposited with the County Treasurer, for instance. I move to strike out the whole section.

The motion was not agreed to.

Mr. MORGAN. I now move to strike out "shall" and insert "may."

Mr. GALARAITH. What would the section be worth then? What should it be in the Constitution for? Is it not a power inherent in the Legislature to create corporations? Why insert a truism?

"Dues from corporations, other than banking shall be secured by such individual liability of the Stockholders or other means as may be prescribed by law."

Have not the Legislature the power to do that, without putting it into the Constitution? The section as it now stands is of no earthly use. It is a mere truism. But it can do no harm. There is that much to be said in its favor. It says dues shall be secured by such individual liability or otherwise as the Legislature may think proper. It is somewhat binding upon the Legislature that there shall be some individual liability, and "may be" is perfectly useless in any case. If the Legislature have not the power already, the "may be," may confer power. But do not they possess the power already to create corporations, and have they not the power to put any restrictions upon them they please, even to prohibition?

Mr. COLBURN. I hope the amendment will not prevail. As said by the gentleman from St. Anthony, the general rule is that corporations shall be formed under general laws. If a body of men come forward and ask for a special act, they ask for an exception to the general rule, and if special privileges are granted, I believe the Legislature should secure the payment of dues from such a corporation, in some manner, and that it should not be left to the Legislature to say whether they will or will not require it.

Mr. SECOMBE. I wish to say a word more. The ninth section of this article defines what is meant by the term "corporations." It is to be construed to include all associations and joint stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships? In other words a corporation is an association of persons—but it may be a single person—invested by the Legislature with some privileges that they would not have without an act of incorporation. Now let us see what would be the liabilities of those persons without an act of incorporation. Individuals, for instance, associate themselves by partnership, and they are individually liable, each man of them, for all the debts. Now they come to the Legislature and ask that they may be incorporated—that is that they may have some additional privileges that they did not have before, and at the same time that they do that, they invariably ask that they shall be relieved from the responsibility which existed before—in other words, that while they have privileges which they did not before possess, they shall now be relieved from any individual liability for the debts of the whole concern. And the Legislature usually grants them what they ask. In some instances they provide that they shall be individually liable to the amount of the stock which they hold. Now the intention of this provision is—and it is one which occurs in the Constitution of almost every State—that the Legislature shall not, while they grant to individuals, under corporations, special privileges, relieve them from all the obligations they were under without such an act.

Mr. MORGAN. If it does not mean anything, it ought not to be in the Constitution. If it does really mean something, then it will operate unfairly. I do not wish hereafter, if another company wishes to build another bridge across the Mississippi river, at Saint Paul, they shall be put under a restriction which was not put upon the first company. Or if the Gas company of St. Paul should become such a monopoly, that the people should require another company, that that new company shall not be required to come under some restriction, as to the payment of its debts, which do not exist in reference to the first company. If it really means nothing, and it is not intended that the Legislature shall hereafter impose any restrictions more than have been imposed upon corporations

which now exist, it ought not to be in the Constitution. If it does, it operates unfairly in favor of corporations already existing, and against those which are to be formed hereafter.

The question was then taken on the amendment offered by Mr. MORGAN, and it was not agreed to.

And then on motion of Mr. BATES, the committee rose and reported the report to the Convention, with a recommendation that the amendments made in committee of the Whole be adopted.

The amendments to the first, second and seventh sections were concurred in.

The question being upon concurring in the amendment to strike out the fourth section as follows:

"SEC. 4. The stockholders in every corporation or association for banking purposes, issuing any kind of paper credits to circulate as money, shall be individually responsible for its debts and liabilities of every kind."

Mr. COGGSWELL. I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by yeas and nays, but confusion in the record arising, from members changing their votes, a new call of the roll was ordered.

Mr. GALBRAITH. Before the question is taken again I wish to say a few words. It has been said to-day upon this floor, that the people of this Territory are in favor of banks. Whether that is so or not I do not profess to know. If it be so, why put a clause in your constitution which will prohibit men of capital who have a particle of financial sense about them, from engaging in the business of banking? This section will drive capital out of the business, and make wild-cat banks? Men of solid means are not going into banking for the accommodation of the community, but for their own benefit, and such resultant benefits as the community may receive from it. Men of capital want to make money. There is no use in disguising that fact. In the first place, you require in this article that they shall deposit ample collateral security, and then you require that every individual shall be individually liable for all the debts of the concern.—Now what man is going to risk his all in banks? Here A, B and C unite in a banking concern, A and B owning one tenth each, and C eight tenths of the capital. C is a man of means, and perhaps has invested all he is worth. A and B may control the affairs of the bank in some way, and create debts which the bank is unable to pay, and C is ruined forever. Every stockholder in the bank is bound for all the debts of the corporation. That will kill any banking system in the world. Why ask of those men collateral security if you are going to hold them to strict individual liability? In many States each stockholder is held liable, not only for the amount of the stock he subscribed for, but for double that amount. That is all well. But to require a man to be bound for the whole amount of the debts of the corporation, is not well. Suppose every corporator in that bank but one should become bankrupt, and the bank should fail; a crushing weight falls upon that one man. He may be a good man. He may not be even an officer in the bank. He may have put his money in, in good faith, to have it in a secure place. All the corporators of the bank break up and become insolvent and bankrupt; the bank closes, and all the debts of the bank fall upon that honorable man, who was the life-blood of the bank. He is ruined. What capitalist will put his money into a bank upon such conditions? If we say that the people of a Territory are in favor of banks, let us prescribe a liberal system. Here we have left it to the Legislature and to the people to say what system we shall have. That is a sufficient safeguard. First the Legislature has the power to pass a general banking law; second, the Governor has a veto power over the law, and thirdly the people have a right to pass upon it, before it can go into operation. What greater security do the people want than themselves? The whole question is placed before them. What more do we want.

Gentlemen were very anxious here, yesterday, to leave everything to the Legislature; but these very gentlemen to-day, in a matter wherein we provide specifically that the people shall have the right to decide the matter, will put in restrictions, when they say, at the same time, that they know that the people of the Territory are in favor of having banks.—They put a clog upon the banking system which will create nothing but wild-cat banks. Capitalists will never engage in banking under

such a system. Fancy men—men who make their money out of nothing—men who get up chalk-milk pumps, and make India rubber out of any kind of gum, may engage in it, and become individually liable; but what is their liability worth? They will borrow as much money as they can, stuff it into their pockets, and where is your recourse? But the man who has made his money by hard labor, will never risk it in an institution with such a clog upon it as that.

Mr. SECOMBE. I hope this motion will prevail, agreeing as I do, heartily with the views just expressed; and my only object in changing my vote was to move to reconsider, if the question was decided in the negative. I believe that we have provided sufficient security in the sections which precede and follow this, for a safe banking system.—If we have done that, it is all any man can reasonably ask. I do not want to impose such restrictions as shall prevent the creation of banks—good and reliable banks. We have provided that there shall be ample collateral security. What is the necessity for anything more? There is no necessity for it, and it certainly would operate as a great objection to any system, and deprive the people of what they want—a good and safe system of banking. I hope gentlemen will consider the matter carefully before they vote upon the proposition.

Mr. BATES. I do hope gentlemen will consider this matter coolly before voting again. It seems to me that the question was not fully understood. The members of this Convention did not understand the extent to which they were going. I verily believe that if this section is allowed to remain it will forever exclude banks from our State,—and we all concur in the opinion that our people wish for banks, and that they wish for them upon a safe and firm foundation. Have not we provided for that? We have provided for ample collateral security in the first place. In the next place we have provided that no banking law should go into operation until it shall have been submitted to the people, and received a majority of the votes cast for and against it. What more can gentlemen ask? Is not that safe?

Mr. COGGSWELL. As I happened to be one of those members who voted against striking out this section, I desire to give a few of the reasons which induced me to take that position. So far as I am concerned, I think I have carefully considered this question. I am satisfied in my own mind what my duty is in regard to it. The gentleman from Scott county (Mr. GALBRAITH,) has intimated that it is the desire of the people of Minnesota to have a banking system.

Mr. GALBRAITH. My statement was, that other gentlemen upon this floor, had so stated—taking it for granted—but that I did not take it for granted.

Mr. COGGSWELL. We'll admit that it is the wish and desire of the people to have a banking system; I do not pretend to say but what such is their desire. But in my judgment, if they do desire it, they desire a sound, a safe, and a reliable system. For my own part, as an individual, I am not much in favor of banks or banking operations. However, I do not propose to follow out that position, but I wish to call the attention of the Convention to certain reasons assigned here, why this section should be stricken out. In the first place, it is insisted that if this section is allowed to remain, it will operate substantially as an exclusion of any kind of a banking system. Now, Mr. CHAIRMAN, I do not understand that that will be the result. If, as has been intimated here, our men of capital will refuse to go into banking operations under this section, it seems to me that there must be a reason for it. What can that reason possibly be? If men are allowed to throw their bills of credit out into the world to have them circulate as a monied medium, in my judgment they ought to be willing to place themselves in such a position that there can be no doubt of their redemption; and if men of capital are not willing to place themselves in such a position, there must be something wrong about it. Now, sir, if you and I propose to establish a bank and issue bills of credit, and have them go out as a circulating medium, it seems to me, if we were honest men, and did intend to redeem those bills, we should be perfectly willing to place ourselves in a position that there would be no doubt of effecting that object. Now, sir, if those men who go into these operations, propose to redeem their bills, and propose also to place the bill-holders in a perfectly safe condition, in

my judgment it will make no difference to them as to the extent to which they may be compelled to go, in order to secure the rights of the bill-holders. We have all had some little experience in regard to this matter of holding stockholders responsible only to the amount of the stock held by them. We know that under that system, in a great many instances, bill-holders have suffered, and that under a system substantially like this now proposed, there are hundreds of thousands of dollars which are worth only from fifty to seventy-five per cent. And I even have bills of that character in my pocket now—bills with which I could hardly buy my dinner. If we intend to establish a sound and reliable system of banking, and place the bill-holder in a position to be perfectly safe when he has a bill in his pocket, we will tell these banking men that when they go into these operations they shall secure us not only by a deposit of these stocks in the hands of the treasurer; but that they shall secure us by their own individual responsibility.

Now a case has been put by the gentleman from Scott county, something like this: A, B and C go into a partnership in banking, and C puts in a great share of the capital. Now would C wish to do that, if by so doing he would place himself in a position, where, in the case of a contingency arising, he would have to foot all the bills of the corporation? Or, in other words, where he would have to take the money out of his own pocket and redeem the bills put afloat by that corporation? In my judgment, if he did not wish to place himself in such a position, he ought not to go into the operation. He goes into it knowingly and puts in more capital than A and B, and if he is foolish enough to put it in, let him take the responsibility; for I do not believe that the bill-holders should suffer because he is foolish enough to go into it in that kind of way and manner.

Again the question has been asked, who will put money into banking corporations if they are to be made personally responsible for the whole amount of the debts of the corporations. In my judgment any man would, provided he was honest and intended to redeem the bills; and if he is a dishonest man, as a matter of course, we ought to throw around his operations such kind of restrictions as will protect the creditors of these banking institutions. Now I think I can refer gentlemen to New England States where this same individual liability system is in full operation; and you will find, when you come to inquire of our brokers, that a discount of only one quarter per cent is placed upon the bills of those individual banks, while the bills of banks that have gone on under this, which I call wild-bank system, are at a discount of three, four and five per cent. In New Hampshire, I know a law has been in operation for a long time, by which individual stockholders were liable not only for the redemption of all bills, but for the payment of all the debts of the corporation; and I know that men invested money in such kind of banks, and I know too that they made money in so doing, and that the bill-holders were perfectly safe.

Hence I say that men who embark in this kind of business will do so with the idea that they will have to redeem their bills, and at the same time will be perfectly willing to place themselves in a position which will afford the bill-holders a perfect confidence in the solvency of the bank.

Mr. HUDSON. I was willing, after we had provided that banking corporations should be established under a general law, to leave the matter with the Legislature; but if we propose to go into the minutia of this matter, I am decidedly opposed to having this section struck out. Gentlemen seem very much alarmed for fear that we shall drive capitalists from our Territory, and that we shall fail to secure any banking system. Well if we are to secure a banking system at the expense of individual bill holders, I hope we shall have none at all. It is the duty of every man who enters an association or corporation for banking purposes, to know who his associates are, and to know whether he is likely to be defrauded by them. If individual stockholders are liable to lose, or if there is any danger of it, there certainly is danger that the bill holders will lose, and we should look out for the interests of the people first. What do the people generally know of the value of the bills which circulate through the country? There is not one man in a hundred who knows any thing of the value of the bills he takes. He has no means of knowing, and hence every safeguard should be thrown

around the banking system, that possibly can be, to protect bill holders, so that when a man takes a bill he may know that he is safe in doing so.

Mr. BATES. I am as much in favor of having a safe banking system as any individual, but we have decided to leave this matter to the Legislature. They are to enact a law, and that law is to be submitted to a vote of the people for their approval, and if the Legislature do not enact a safe system, the people will have the privilege of voting it down. What more can gentlemen ask? One gentleman refers to a system in New Hampshire. I ask the gentleman if in the Constitution of New Hampshire, there is any such provision as this? There certainly is not.

Mr. COGGSWELL. I did not state that there was any such provision in the Constitution of that State, but that there was a general law of that character.

Mr. BATES. And in the Constitutions of the various New England States, to which the gentleman has referred, there is no provision similar to this. The safety of their banking institutions is secured under a general law, and such should be the case here. If this section is put into the Constitution, it may act as too great a restraint. I am in favor of a general law, and one which will make our system safe.

Mr. HARDING. I now rise to a point of order. Is not this whole debate out of order? We have had debate sufficient upon both sides, and it is all out of order after the yeas and nays are demanded.

The PRESIDENT. It certainly is out of order but the Chair has permitted it, considering it a very important subject.

Mr. COLBURN. I desire to say a few words upon this subject, as I have felt some interest in this provision. I have been from the first opposed to it. I believe, as the gentleman from Scott county (MR. GALBRAITH) said, if you incorporate this provision into the Constitution, it will operate as a prohibition of banks. And if it does not operate as a prohibition it will throw the banking system into the hands of irresponsible men. If the man of capital wants to engage in the business of banking under this provision, his own name will not be used, but the names of other persons who are not responsible, although he may be at the bottom of it. I have seen that thing carried out in the banking business, time and again, and I want to avoid its recurrence here. I am in favor of securing the bill holder in the best possible manner. I am in favor of throwing around him all proper safeguards, but at the same time, I am opposed to defeating the banking system. Gentlemen talk as though they looked upon this system as a one sided system, and as though the only object was to make money, upon the part of the bankers. I believe that the banking system is for the mutual benefit of the men who carry on the business, and of the people who enjoy the facilities they furnish for developing the resources of the country. It is a benefit to the State as such. But I desire this matter to be left to the Legislature. We have left them to determine what kind of stocks shall be pledged as security for the bills issued; but we have said distinctly that ample collateral security shall be deposited. Another section provides that in case of the insolvency of any bank, the bill holders shall be entitled to preference in payment. Now is there any chance for the bill holders to lose, if the Legislature do their duty?

Again, if that provision is put into the Constitution, and it has the effect, which I believe it will, to drive capitalists away, and keep them out of the business, or else to engage in the business in the names of irresponsible persons, it will certainly be deleterious, if it has the latter effect; and if the former effect, we shall have the State flooded with foreign bills. This Territory is flooded to-day with the paper currency of other States. Can you point me to a single Western State which has such a provision as this, under a general banking law? Is there a single State that provides for the deposit of security to the full amount of the paper issued, and at the same time makes the stockholders individually responsible for all its debts? If any gentleman can point me to such an instance, I would like to know it. Wisconsin has no such provision in her law, which has been so eulogised here, and justly too.

The gentleman from Steele County, (Mr. COGGSWELL) has referred to New Hampshire. New Hampshire has no general banking law.

Her laws do not require the men who engage in banking business to deposit security to the full amount of their issue, and then become individually responsible.

How is it in Massachusetts? Their stockholders are individually responsible to twice the amount of shares they own, but they are allowed to issue bills to twice the amount of the security deposited. It seems to me, to say that they shall be individually liable to the full amount of their fortune, will have a prohibitory effect, and that no banking system can prosper under such a provision.

I hope, then, the section will be stricken out, and the matter be left with the Legislature. If the Legislature thinks that there is not ample security, let them provide that the stockholders shall be individually responsible to the amount of their respective shares. I am confident that the Legislature will provide all the security that is needed. If this section is retained it will create a strong prejudice in the minds of the very men who have had ideas of going into the banking business. I believe it will have the opposite effect from what gentlemen intend. Instead of putting the business into the hands of reliable capitalists—though they may be at the bottom of it—it will be placed into the hands of men of straw.

Mr. STANNARD. I am disposed to put banking corporations upon the same footing as limited partnership. The second section provides that no general act shall be passed granting banking privileges, without ample collateral security being deposited for the redemption of the issue. I consider that the credit of such a body should be the credit of a corporation and not that of an individual. I am aware that in the New England States where they have no general banking law, and where the corporation is not obliged to deposit with the State Treasurer any security, it may be very important, as the gentleman suggested, to have the individual stockholders liable for the redemption of the bills. But here we provide that no act shall be passed which shall not require a bank to deposit ample collateral security for the redemption of its issues. Now suppose that section four is allowed to remain in, and that each individual stockholder shall be liable not only to the amount of his stock—for I am willing to go thus far—but for every debt and liability of every kind; do you suppose capitalists would go into business under such a regulation? I think that inasmuch as we have exacted a general security, it would be folly to hamstring corporations of this kind by making stockholders individually liable. If this were the only provision in the bill, I should consider that it created an unsafe system. As it is, we have other provisions much better, securing fully the bill holders. Require only an individual responsibility, and if the affairs of a corporation should be going badly, a man could transfer his stock to an irresponsible person and thereby escape responsibility under the provisions of this section, which gentlemen say should remain in the Constitution. Now the credit of banking corporations is not based upon the individual responsibility of the stockholders, but upon the credit of the corporation as such.

Mr. LOWE. I have lived in a State where a provision similar to this has been, for a long time in operation, and I think I am prepared to have an opinion upon the subject. My impression of its operation is unfavorable to it. I have known a great many cases of hardship to poor men resulting from it; but in what respect good has resulted from it, after an experience of ten years, I cannot say, and do not know. I would like gentlemen to point me to an instance in which it has operated advantageously. It seems to me that it operates badly for the corporation and the people. It was tried in New Hampshire purely as an experiment, and as such it operated mischievously. If it is to become a part of our laws, it should be left to the Legislature to establish it. It is strictly a matter of legislation. But I do not even see why, when it is of doubtful efficacy, we should apply to the Legislature for such security. We can entrust the whole matter to them. If we are to have any such provison for security in the Constitution, I want it to be an unquestionable provision, and one that will answer the end intended. I hope the good sense of the Convention will vote down this section.

Mr. GALBRAITH. I do not wish to discuss this matter any longer. I hope the question will be put and if the section is voted in, I will offer an amendment.

Mr. McCLURE. I wish merely to sug-

gest here, that if some of our friends do not cease violating one of our rules pretty soon, I shall have to call them to order. When we have rules, I believe they should be observed. This speaking two or three times is a little more than should be allowed.

For myself I shall vote to strike out this section, for the reason that I think the Legislature can provide, under the preceding part of this report, security just as good as is desired or necessary.

Mr. KING. I think there is evidence enough before the Convention to show them the propriety of taking this security for banking operations. Take the whole history of banking, and there never has been a bank upon a firm foundation, except existing banks, of course, and we cannot tell how soon they may break. Let us try this plan and see if it will not give us permanent and secure banks. One gentleman has said that capitalists will not connect their names with a bank, but will assume a name. I reckon our Legislature is wise enough to counteract any such operation, and forbid it.

Mr. COLBURN. The gentleman misapprehends me. I said that if the real capitalist should engage in the business of banking, he would allow other and irresponsible people to take the stock, and although it was really his, it would be in the names of other persons, and thereby he would escape personal liability.

Mr. KING. That may be so, and if it is so, it will be necessary to find that out as soon as possible. It seems to me that there would be a very fair prospect of making money, if I could go into a corporation of this kind, and issue bills to an amount two or three times as much as I am worth, and not risk what possessions I have. If men are not willing to risk their property and stock which they may put into a bank, in the hands of other individuals because they may be rascals, it seems to me that that is sufficient evidence to satisfy us that this section is right.

I think there is a provision in some Constitutions that corporations shall not have privileges which individuals do not possess. Now no individual has a right to give his note, and not be responsible for that note; and no corporation should have that right. Corporations should never have privileges not granted to individuals. If there never has been a bank incorporated upon this principle, I should like to try it here.

Mr. GALBRAITH. I do not rise to speak again at length. I have spoken but once. I like the idea of keeping, as nearly as may be, corporations upon the same footing with individuals. A corporation is but one individual in law, though it is a combination of individuals to accomplish a specific end, which individuals cannot do. We provide that the stockholders shall put in good, ample security, and shall we require anything more? Who ever heard of an individual doing a legal credit business, depositing collateral security for every debt he creates. The law prescribes no such thing. One instance of the working of this principle now occurs to me. It is the case of the Miner's Bank of Pennsylvania. It went into operation under a charter in which the most stringent personal liability clause was inserted. Certain individuals well known in that State, went to work to defraud the people through that bank. An old man and his sons put their heads together, and got control of the concern, issued a hundred thousand dollars worth of bills, and then "busted." Well, they were individually liable, but what security was that to the bill-holders? Nobody ever got anything. The other security is the best. Security which is tangible is what I want. Individual security is good enough in its place, but not here.

Mr. WILSON. We want tangible security, and along with that we want individual liability. I cannot say that I am in favor of this section to the extent to which it goes, and if it is retained I shall offer an amendment to it. The members of corporations know when there is no responsibility in a banking concern, each member is behind the screen, and knows what security there is there; and if he is not willing to assume the responsibility of becoming personally liable, it is sufficient evidence, to my mind, that that bank is unsafe; that every poor man with one of its bills in his pocket, is unsafe.

But gentleman say we require them to give ample collateral security. How often have we found this ample security turn out not to be ample security? We have found it so in the case of almost every bank that has been

broken. Ample security often means anything. Every man knows that. Ample security! It is at the discretion of certain men to say what is. Sometimes we err wilfully, and sometimes ignorantly. The Legislature will be quite liable to err. If men are not willing to say that they will risk their property under this section, I say they should not have the benefits resulting from the business. If banks break, who should lose but those who get up the security. Except themselves, who knew what the security was? They know what the security is, and they should not loan their paper unless it is secured. If it is secured, they get the benefit, and if it is not, they should bear the loss.

As I said before, I am in favor of a medium between the two extremes, but I shall vote first in favor of retaining the section, and if retained, I will offer an amendment to it. But I rather have the section as it is, than nothing, and I shall continue to vote for it.

Mr. BALCOMBE. I voted before, against striking out this section for the very purpose of moving a re-consideration, as did the gentleman from St. Anthony, (Mr. SECOMBE). I am in favor of striking out this section, as I was before in favor of striking out all the sections which provide for a system of banking. I am more desirous of striking out this section, than I am of any other, for the reason that it contains a principle over which there will be a great deal of controversy. I supposed, when the first section of this report was amended so as to require the Legislature to frame a banking law, and submit it to the people, that it was for the purpose of throwing out of the Constitution the whole banking system, and to get rid of the discussion upon the consequences of establishing a banking system. I cannot see the consistency of providing that the Legislature should pass a law and submit it to the people, and then going on and framing a whole system and inserting it into the Constitution. I cannot see why gentlemen should persist upon that with so much tenacity. If we adopt the first section, we provide for a full and complete system substantially, for the Legislature, under that, must frame a general banking law and submit it to the people. If you go on and adopt the other sections, why make it incumbent upon the Legislature to submit their law, when there is nothing to submit, which is not contained in the Constitution? Why ask them to submit something which the people have already sanctioned in the Constitution? The time and expense which the Legislature would spend in passing a general law and submitting it to the people would be all lost.

Again, by inserting such provisions in the Constitution, we put an obstacle in the way of the adoption of the Constitution itself, for I am satisfied that a large number of our voters will oppose the adoption of a Constitution containing such a system of banking. There is a large commercial, mercantile and monied interest in the Territory, that will oppose its adoption, and thereby endanger the adoption of the Constitution, and perhaps entirely defeat it, and prevent our coming into the Union for some time.

Mr. COLBURN. I would inquire if the yeas and nays are ordered to be taken again upon this question?

The PRESIDENT. They have been ordered.

Mr. FOLSOM. I recorded my vote in the affirmative. I am still opposed to that section. I hope we shall have no more discussion upon it, but shall proceed to vote immediately.

The question was then taken on the recommendation to strike out section four, and it was decided in the affirmative, yeas thirty-two, and nays sixteen, as follows:

Yeas—Messrs. Ayer, Balcombe, Baldwin, Bates, Butler, Cleghorn, Colburn, Dickerson, Eschlie, Foster, Folsom, Galbraith, Hayden, Holley, Kemp, Lowe, McClure, Morgan, Mills, Murphy, North, Phelps, Perkins, Putnam, Peckham, Russell, Stannard, Secombe, Smith, Thompson, Watson, and Sheldon.—32.

Nays—Messrs. Anderson, Bartholomew, Billings, Coggswell, Cederstam, Davis, Duley, Gerrish, Harding, Hudson, Hanson, King, Mantor, McCann, McKune and Wilson.—16.

So the section was stricken out.

Mr. WILSON. I offer the following to supply the place of the section which has just been stricken out:

"SEC. 4. Dues from corporations or associations for banking purposes issuing any kind of paper credits to circulate as money shall be secured by such individual liability of the stockholders and other means as may be prescribed by law, but in all cases, each stockholder shall be liable over and above the stock by him or her owned, and any amount unpaid thereon, to a further sum at least equal in amount to such stock."

Mr. SECOMBE. I would inquire of the Chair if that amendment is in order while there are other amendments recommended by the committee pending?

The PRESIDENT. The Chair thinks it is not strictly in order until after those amendments are disposed of.

Mr. WILSON. I have no objection to its laying over.

And then, on motion of Mr. HUDSON, (at twelve o'clock and ten minutes) the Convention took a recess until half past two o'clock.

AFTERNOON SESSION.

The Convention was called to order at half past two o'clock.

BANKING CORPORATIONS, &C.

The Convention resumed the consideration of the amendments to the report of the committee on Banking and Corporations other than municipal, the question being upon the next amendment recommended by the committee, to substitute the word "or," for the word "and," in section seven, which is as follows:

"SEC. 7. Dues from corporations other than banking shall be secured by such individual liability of the corporators, and other means as may be prescribed by law."

The amendment was concurred in.

Mr. FOLSOM. I move to strike out sections six and seven. Section six provides that corporations for purposes other than banking may be formed by general laws, and also that all general laws &c., may be altered from time to time or repealed. I do not see the necessity of first giving the power to pass laws, and then to repeal them from time to time. It seems to me useless to burden the Constitution with any such article. The Legislature have the power, without its being conferred upon them here.

Mr. SECOMBE moved a call of the Convention.

A call was ordered and the roll being called the following members failed to answer to their names:

Messrs. Aldrich, Anderson, Ayer, Bolles, Cleghorn, Coe, Coombs, Eschlie, Foster, Hall, Hanson, King, Lowe, McCann, Murphy, North, Perkins, Robbins, Walker, Winell, Watson, and Sheldon.

Mr. COLBURN from the committee on Leave of Absence, stated that Mr. ALDRICH was out of town, and had asked leave of absence for the day.

Mr. HARDING moved that all further proceedings under the call be dispensed with.

Mr. SECOMBE. I would inquire how many members are absent?

The PRESIDENT. Twenty-one members are absent unexcused.

Mr. SECOMBE. The matter we have under consideration is one of very great importance, and about which we have discovered that there is a difference of opinion. I hope further proceedings in the call will not be dispensed with.

The motion was not agreed to, and the Sergeant-at-Arms was directed to report absent members in their seats.

Mr. STANNARD moved (at two o'clock fifty minutes) that the Convention adjourn.

The motion was not agreed to.

Mr. WILSON moved (at three o'clock) to reconsider the vote by which the Convention refused to suspend further proceedings under the call. I wish to say that——

Mr. STANNARD. Debate is not in order.

Mr. WILSON. I would inquire if my motion is debatable?

The PRESIDENT. It is not.

Mr. WILSON. Can I be permitted to say that if we do not reconsider the vote we shalll be compelled to adjourn?

The PRESIDENT. It is not in order to make any such remark.

Mr. WILSON. Then I will not say so. (Laughter.)

The motion to reconsider prevailed.

The question then recurred on the motion to dispense with all further proceedings under the call, and being put it was lost.

Mr. HUDSON moved (at three o'clock and five minutes) that the Convention adjourn.

The motion was not agreed to.

Mr. STANNARD moved to reconsider the vote by which the Convention refused to adjourn. (Laughter.)

The PRESIDENT. The motion is out of order.

Mr. HAYDEN. I move that we adjourn until four o'clock.

The PRESIDENT. A motion to adjourn to a specific time is out of order.

Mr. HAYDEN. Will a motion to take a recess be in order?

The PRESIDENT. It will not.

Mr. STANNARD. Will a motion to adjourn be in order. (Laughter.)

The PRESIDENT. It will not.

Mr. HAYDEN. Shall I have leave to make a remark? [Cries of "leave," leave."]

Mr. STANNARD. I cannot listen to any remarks.

The PRESIDENT. If any gentleman objects it is not in order.

Mr. STANNARD. I will withdraw the objection.

Mr. DAVIS. I would like to hear the gentleman under other circumstances, but I must object now.

Mr. HAYDEN. I think we are not doing our duty as we should, while spending time in this way. There is a goodly number of members present, and it is wrong to spend time in this manner when we have so much business on our hands. I hope we shall proceed to business at once.

Mr. COLBURN moved to reconsider the vote whereby the Convention refused to suspend further proceedings under the call.

The motion to reconsider prevailed, and then all further proceedings under the call were dispensed with.

The question recurred on the motion to strike out sections six and seven of the report.

Mr. HARDING. I move the previous question.

Mr. SECOMBE. I move that the report and the previous question be laid on the table.

The motion was not agreed to.

The previous question was then seconded, and the main question ordered to be put.

The main question being the motion to strike out sections six and seven—

Mr. SECOMBE demanded the yeas and nays.

The yeas and nays were ordered, and the question being taken, it was decided in the negative—yeas 6, nays 33—as follows:

Yeas.—Messrs. Ayer, Balcombe, Folsom, Mills, Putnam, and Stannard.—6.

Nays.—Messrs. Baldwin, Bates, Bartholomew, Billings, Butler, Colburn, Coggswell, Cederstam, Davis, Duley, Dickerson, Eschlie, Galbraith, Gerrish, Hayden, Harding, Hanson, Holley, King, Kemp, Lyle, Mantor, Mc lure. Messer, Phelps, Perkins, Peckham, Russell, Secombe, Smith, Vaughn, Wilson, and Sheldon.—33.

Mr. DICKERSON. I move to strike out section seven.

The motion was not agreed to.

Mr. WILSON. I now offer the following, to take the place of section four, which has been stricken out:

"SEC. 4. Dues from corporations or associations for banking purposes, issuing any kind of paper credits to circulate as money, shall be secured by such individual liability of stockholders and other means, as shall be prescribed by law; but in all cases, each stockholder shall be liable, over and above the stock by him or her owned and any amount unpaid thereon, to a farther sum at least equal in amount to such stock."

My amendment will obviate to a great extent the difficulty spoken of this morning, in regard to one person being held for the whole amount of the debts of the corporation. My amendment provides that each stockholder shall be individually liable for the debts to at least double the amount of stock held by such person. What is the necessity for such a provision? Here is a bank established, and there is a law requiring that bank to deposit stocks of a certain kind to secure the redemption of the bills. Stocks may be deposited to the amount, say, of one dollar and twenty-five for every dollar circulated. Now we know that those stocks frequently depreciate, and they may so depreciate as to come down to the actual amount in circulation. Now take a bank that has nearly as large a circulation as it has securities deposited, that bank does not secure the people fully. I want security enough to cover the deposits as well as the circulation, and if the members of a corporation are not willing to become personally responsible for a sum at least double the amount of their stock, then their institution is an unsafe one, and the people should know it, that they may guard against it. If persons who know the whole workings and responsibility of a bank, will not become responsible for at least an amount double their stock, so as to cover the amount of deposits and bills, no person should touch the notes of that bank. It would be unsafe, and we should have nothing to do with it.

Mr. MORGAN. I hope the amendment will not be adopted. It seems to me to be a piece of complicated legislation which we cannot fully understand at this time. We have decided, by an amendment previously intro-

duced, to leave the matter with the Legislature, subject to revision by the people, who are to vote upon any law the Legislature may pass. This amendment is liable to all the objections which have been urged here so often in regard to legislation. For that reason, I am decidedly opposed to it.

Mr. WILSON. Permit me to say that my amendment is taken, word for word, from the Ohio Constitution. We are not anticipating and going ahead of the times, but coming after.

Mr. COLBURN. The Ohio provision was founded upon a different basis from our report.

Mr. BATES. We have introduced here a provision which is contained in no other Constitution in the United States. We have required ample collateral security, which Ohio has not required. In addition to that we require that a general banking law shall be submitted to a vote of the people. I do not know what further could be asked. It seems to me that that is all that ought to be required.

Mr. WILSON demanded the yeas and nays.

The yeas and nays were ordered, and the question being taken it was decided in the negative—yeas 17, nays 26, as follows:

Yeas.—Messrs. Anderson, Bartholomew, Billings, Coggswell, Davis, Duley, Eschlie, Gerrish, Harding, Hudson, Hanson, Holley, King, Kemp, McCann, Messer, and Wilson.—17.

Nays.—Messrs. Ayer, Balcombe, Baldwin, Bates, Butler, Colburn, Cederstam, Dickerson, Foster, Folsom, Galbraith, Hayden, Lyle, McClure, Morgan, Mills, Phelps, Perkins, Putnam, Peckham, Russell, Stannard, Secombe, Smith, Vaughn, and Sheldon.—26.

So the amendment was rejected.

Mr. LYLE. I offer the following as a substitute for the first five sections of the bill. I am opposed to any legislation whatever upon the subject in the Constitution:

"SEC. 1. The Legislature shall have power to pass a general banking law, with such restrictions and under such regulations as they shall deem expedient and proper for the security of the bill holders; *Provided*, that no such law shall have any force or effect until it shall have been submitted to the electors of the State at some general election, and been approved by a majority of the votes cast upon that subject at such election."

Mr. SECOMBE demanded the yeas and nays.

The yeas and nays were ordered, and the question being taken it was decided in the negative—yeas 17, nays 27, as follows:

Yeas—Messrs. Balcombe, Foster, Folsom, Galbraith, Hudson, Hanson, Holley, King, Kemp, Lyle, McCann, Mills, Putnam, Russell, Stannard, Smith, and Vaughn.—17.

Nays—Messrs. Anderson, Ayer, Baldwin, Bates, Bartholomew, Billings, Butler, Colburn, Coggswell, Cederstam, Davis, Duley, Dickerson, Eschlie, Gerrish, Hayden, Harding, Mantor, McClure, Messaer, Morgan, Phelps, Perkins, Peckham, Secombe, Wilson, and Sheldon.—27.

So the substitute was rejected.

Mr. STANNARD. I move to amend section six by striking out the words "formed by general laws" and insert in lieu thereof the words "created by the Legislature."

Mr. COLBURN. If that amendment is adopted, corporations for other purposes than banking, cannot be created by a general law or by a special act, except in certain cases. It would place the Legislature in a very awkward position.

Mr. STANNARD. I claim that my amendment will have just the contrary effect. The Legislature can pass any general law at any time and it is always the policy of the Legislature to do so, and the only case in which special acts are called for is where the object cannot be attained under general laws.

Mr. FOSTER. Would not the object the gentleman seeks, be obtained quite as well, if the section were amended to read in this manner: "corporations for purposes other than "banking shall not be created except by spec- "ial act, except for municipal purposes, &c." That would improve the phraseology.

Mr. STANNARD. I am opposed to the section as it now stands, for reasons urged before by some gentleman this morning. There are some portions of our Territory already settled, the water power of which is already sufficiently secured by acts of incorporation; and many of those acts extend quite a length of time. But there are other parts of the Territory, not yet settled, that will need similar acts of incorporation. But here we are providing for the creation of corporations only by general laws. Now where it would not be practicable to pass general laws, it would stop all legislation of the kind. I ask every member of this Convention, if a general law can be framed which will apply to all these

cases? We all know it cannot be done.—Then special acts should be passed. I do not propose to shut the gate now against other portions of our Territory, not yet settled, and debar them of the privileges we enjoy. The Legislature heretofore has been very liberal, and I say that is one reason why Minnesota has advanced so rapidly as she has. The incorporation of towns and railroads tend to awaken interest in Minnesota, and it is a mistaken idea that our Legislature should be trammelled in this respect.

Mr. COLBURN. I think the gentleman does not understand the language of the section, or else he does not correctly explain what he understands. If I understand what the gentleman from Chisago desires, it seems to me that this section meets his views exactly. In the first place I understand that the gentleman is in favor of corporations being created and established under general laws, a general rule. Now this section provides that "corporations for purposes other than "banking may be formed by general laws; but "shall not be created by special act, except for "municipal purposes;" and then it goes on to provide that in cases where, in the judgment of the Legislature, the object of the corporation cannot be attained under general laws, they may create corporations by special act. That meets the gentleman's views exactly It makes the formation of corporations under general laws the rule. The exceptions are when the objects cannot be attained under general laws. Such also was the intention of the committee, and I believe the language is very clear.

Mr. STANNARD. Will the gentleman give one or two instances of corporations which will be established by general laws?

Mr. COLBURN. There are many kinds of manufacturing companies in the several States, which do exist under general laws.—Railroad companies may sometimes be formed under general laws. But where the object cannot be attained under a general law, the Legislature has the power to pass a special act. This provision will save much legislation.

Mr. SECOMBE. I. hope the amendment will not prevail. The provision as it now stands, lays down to the Legislature a general rule of action, and that is, that corporations, not only for banking, but for all other purposes, shall be formed under general laws—that there shall be laws passed comprehending certain subjects, and then every association of persons who wish to go into that kind of business under that general act of incorporation, can, by complying with the terms of the act, become incorporated. And if there were not certain cases to which it would seem that general laws could not apply, I should be decidedly in favor of prohibiting the Legislature from passing any special acts. But there are a class of cases, in the opinion of the committee, which could not be reached by a general law, or if it could be, it would require great circumlocution. I might refer to the case of boom companies,—a very important class of incorporations in this Territory. It might be that a general law might be passed which would cover that subject.—There might also be such cases in regard to the improvement of rivers, either by dams or otherwise, which no general law would cover. And it was the intention of the committee while we prescribed a general rule for the Legislature, yet not to prohibit them from passing an act incorporating companies specially and with special privileges, if in their judgment it could not come within a general law. It was objected by some of the committee that it left it to the judgment of the Legislature to say whether or not the required object could be attained under a general law, and that if they desired to pass an act giving special privileges to any individual, they could make an excuse, and do it. But the general provisions of the Constitution would be to them a rule, and they would fall back upon that and refuse special privileges to individuals, when they would not do so if they had the whole thing under their control. I believe that the provision as it now stands, is the best we can have upon the subject.

Mr. FOSTER. I wish simply to remark that this whole section appears to me to mean everything and nothing. It seems surplusage entirely. It in the first place attempts to prohibit the Legislature from doing something, and then in another line it permits them to do it. Mark the language.

"Corporations for purposes other than banking may be formed by general laws, but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the Legislature, the object of the corporation cannot be attained under general laws."

That is a charter as large as the wind. The Legislature may at any time decide that a particular object cannot be attained under general laws, and pass a special act to meet the case. Where is there any appeal from that matter of judgment? Suppose you take it to the Supreme Court, what could they say, but that it was a matter left to the judgment of the Legislature, and that they could not reverse that judgment? If you intend to prohibit the Legislature from passing special acts of incorporations, why prohibit them, or else say nothing about it. Do not attempt to do it, and then not do it.

The question was taken, and the amendment was not agreed to.

Mr. WILSON. I propose to amend the report further by adding the following sections:

"SEC. —. No right of way shall be appropriated to the use of any corporation, until full compensation therefor be first made in money, or first secured by a deposit of money to the owner, irrespective of any benefit to accrue to the owner from any improvement proposed by such corporations; which compensation shall be ascertained by a jury of twelve men, in a court of record, as may be prescribed by law,"

Mr. COLBURN. I move the previous question upon that amendment. The subject has been thoroughly discussed heretofore.

Mr. NORTH. I rise to a question of order. That amendment having been once introduced before, and fully discussed, can it be introduced again?

The PRESIDENT. The Chair thinks it is in order, as an amendment to this report.

Mr. COGGSWELL. Will a substitute for the additional section be in order?

The PRESIDENT. Not after a demand for the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. WILSON demanded the yeas and nays upon the amendment.

The yeas and nays were refused.

Mr. STANNARD moved that there be a call of the Convention.

A call was refused.

The amendment was then rejected.

Mr. SECOMBE. I now move that the report be ordered to be engrossed for a third reading.

Mr. COGGSWELL. I move that that motion be laid upon the table.

Mr. KING. What will be the effect of laying that motion on the table?

The PRESIDENT. The report will still be before the Convention.

The motion to lay upon the table was lost.

The question then recurred upon the motion of Mr. SECOMBE.

Mr. COGGSWELL. I believe a motion of that kind is debatable. I wish simply to say that I am opposed to that motion at present, for the reason that I know that there are gentlemen here who have amendments they desire to propose; and it looks exceedingly ungentlemanly, to say the least of it, for gentlemen to make propositions, and speak time after time in violation of the rules of this body, and then move the previous question and attempt to deprive other members of equal rights. I hope the motion will not prevail. Every member should have the right to move any amendment he sees fit.

Mr. COLBURN. I have not moved the previous question for the purpose of cutting off anybody from offering any amendment which I thought had any bearing upon this subject. I moved the previous question for the first time since I have been in the Convention, and I did it because an amendment was offered which was out of place, and every principle of which had been decided by this Convention after full discussion; and I say that to try to lug in any such proposition, when it is entirely out of place, is improper, to say the least of it. I should move the previous question again under similar circumstances, and if I ever bring in such an amendment, I will quietly submit to the previous question. The gentleman who moved the amendment, himself voted for the previous question. So I think no harm can be done to anybody.

Mr. COGGSWELL. Mr. PRESIDENT—

Mr. BILLINGS. I call the gentleman to order. He has spoken once. [Cries of "leave!" "leave!"

The PRESIDENT. If no objection is made the gentleman from Steele will proceed.

Mr. COGGSWELL. I deny the right of the gentleman from Fillmore, or any other man, to dictate to me in regard to the propriety of introducing an amendment at any time

I think proper. I deny the right of him or any other man, to decide for me when the proper time is or is not, for me to introduce an amendment. So far as the amendment introduced by the gentleman from Winona (Mr. WILSON) is concurred, I apprehend there is no sane man who will pretend to say that that amendment is not appropriate in this place, or connected with this report. Here we are treating upon banking corporations and others not municipal. We are treating upon railroad corporations and canal corporations, and all others, of like kind and character; and it seems to me that when amendments are introduced which touch directly upon the rights and liabilities of this kind of corporations, it does not come with any degree of propriety, to say the least of it, for any man to get up and say it is not proper—that it is clearly improper. It is true that an amendment of that kind was proposed to be inserted in the bill of rights, and I voted against it at the time for the reason that I thought the bill of rights was not its proper place. I thought that anything connected with the right of way, anything connected with the assessment of damages in regard to the right of way to be taken by any company, was appropriate under the head of corporations other than municipal. That is my opinion now, and it is for that reason I say that the amendment introduced by the gentleman from Winona was offered in its proper place.

I know there are other gentlemen who have amendments which are proper at this time and in this place, but as I said before, it may be according to the disposition or nature of certain gentlemen, after occupying the floor, time after time, to undertake to move the previous question and cut off the rights and privileges of others. I tell them, they, in the future, better beware.

Mr. COLBURN. I have not undertaken, nor do I undertake to dictate to any man when the proper time is to offer an amendment. I have not attempted to dictate to the gentleman from Steele County (Mr. COGGSWELL), or to the gentleman from Winona County (Mr. WILSON).

The President will recollect that I withdrew two motions in order to allow gentlemen to offer amendments. But I want the gentleman from Steele County to understand, neither shall I allow him to dictate to me, when it is proper to move the previous question. When I do not undertake to dictate, I shall not be dictated to. I believe it is proper for me or any other gentleman of this Convention, if he believes an amendment is not introduced in the proper place, to say so. If I have offended in so saying, I plead guilty, for I did say it. I think the amendment was not offered in a proper place, and I said so. The gentleman from Steele County differs with me, but I claim the same right he does.

Mr. WILSON. I want to say that the modesty—I would not dare to give its true name—that induces a man to stand up here and say "in my judgment amendments are "proper, and I shall not attempt to shut them "off"—such modesty is examplary truly. When this amendment was offered before to the Bill of Rights, the gentleman could not say what he would do upon its merits, but that it was not in its proper place in the Bill of Rights and upon that ground he would vote against it.

Mr. COLBURN. I did not say any such thing. I was not in favor of the proposition itself.

Mr. WILSON. I said the gentleman said he should vote upon it upon the ground that it was not in its proper place; and now to-day he says it is not in its proper place—thus contradicting himself. Here is modesty in the extreme; becoming, though, in some—very modest!

The PRESIDENT. The question is upon ordering the bill to be engrossed for a third reading.

Mr. NORTH. I was not present during the whole discussion upon this article. It seems to me that the sixth section should be further amended, and I hope that in some manner it will be done before the report is ordered to be engrossed. Though I am in favor of general laws as far as practicable, I think there are cases where there may be a necessity for special laws, such as charters for railroad and other companies of a like character, where the object can be attained more conveniently by a special than by a general law. There are many cases where the Legislature find great difficulty in framing general laws to apply to proper objects of legislation. I recollect there was a bill before the Leg-

islature last winter, authorizing the erection of a dam upon a certain river of this Territory. It was a proper subject of legislation; it was a matter which was needed and desired by the whole community. There was an effort made to get up a general law which should cover that case, and all other cases of a like nature. One gentleman said to me that he worked upon it for several days, and found it almost, if not quite impossible to frame such a law; and that it was much easier to frame a special enactment. I have no doubt that that is a very common difficulty. Whether it is or not, cases will arise which general laws will not cover, and to tie up the legislative body so that it cannot provide for such cases, would be unwise.

Again, the section provides that all judicial laws, or special acts passed in pursuance thereof may be altered from time to time or repealed. Now if that means all that its language could be construed to mean, it would not be safe for any corporation to do any business whatever under any charter that might be given them by general laws in this State, because their vested rights would not save them at all—the Legislature having the power by this article, to repeal, alter, or amend the law at their pleasure. We certainly ought not to put things in such a shape as that. I do not see the necessity for any such provision in the Constitution. It is enough that the Legislature throws sufficient guard around that right of alteration or repeal when they pass the law.

And here I reiterate the idea often expressed, but not regarded as it should be, that we are proceeding to legislate too much in the Constitution. I am receiving letters from all parts of the country, from some of the wisest heads in the Territory, continually cautioning me against legislating in the Constitution. The people of the Territory are thinking about it, and feel concerned that we are going too far in that direction. I hope we shall pause before we consummate too much of that kind of legislation.

Mr. KING. I want some considerable alteration made in this report before it is ordered to be engrossed. If it goes into the Constitution as it now stands, it will knock off considerable many votes from our Constitution, because any man who understands the nature of legislation, will see that sections three, four, and five, are mere legislation, and if they go before the people they will be judged of and voted for or against, according to their merits; every man judging of them according to his own notions. I think we should pause and look at this thing a little more carefully, and see if it is not best to strike them out. The Constitution will certainly get a much better vote with them out, than with them in.

The question was then taken on the motion to order the report to be engrossed, and it was decided in the negative.

Mr. COGGSWELL offered the following as an additional section:

"SEC. —. No right of way shall be taken by, or appropriated to, any corporation, until a fair compensation shall have been paid or tendered to the owner thereof, and also all damages sustained by reason of the taking or appropriating of the same; and in no case shall any benefit or supposed benefit which may arise by reason of the construction of any Canal, Railroad, or other internal improvement, be taken into the account in estimating the amount of the same."

Mr. NORTH. I would inquire if that amendment is not identically the same with the one offered by the gentleman from Winona (Mr. WILSON)?

The PRESIDENT. The same in substance, but not the same in language.

Mr. COGGSWELL. In my judgment, there is quite a difference; but I do not propose to go on and point out that difference. I desire the yeas and nays upon the adoption of my amendment, as an additional section.

The yeas and nays were ordered, and the question being put it was decided in the negative—yeas 15, nays 30, as follows:

Yeas.—Messrs. Anderson, Baldwin, Coggswell, ederstam, Davis, Duley, Gerrish, Harding, King, Kemp, Mantor, McCann, McKune, Mills, and Wilson.—15.

Nays.—Messrs. Ayer, Balcombe, Bates, Bartholomew, Billings, Colburn, Dickerson, Eschlic, Foster, Folsom, Galbraith, Hayden, Hudson, Hanson, Holley, Lyle, McClure Morgan, Murphy, North, Phelps, Perkins, Putnam, Russell, Stannard, Secombe, Smith, Thompson, Vaughn, Sheldon.—30.

So the amendment was rejected.

Mr. STANNARD. I move to strike out section six.

Mr. COLBURN. I rise to a point of order. That motion has been once made and voted down.

The PRESIDENT. A motion was made to strike out section seven.

Mr. COGGSWELL. I move to amend the motion, by so modifying it as to strike out the following words from section six:

"All general laws or special acts passed in pursuance of this section, may be altered from time to time or repealed."

So far as the first part of the section is concerned, it is right and proper in my judgment. So far as the latter portion is concerned, while there may be cases, where, perhaps, it would be proper for a Legislature to repeal certain acts conferring upon corporations vested rights, I am satisfied that there might be times when this latter part of that section would be unconstitutional. But the first part of the section is right and proper, and will prevent all this special legislation, of which we have heard so much.

Mr. COLBURN. When the committee had this section under consideration, they did not consider that it would authorize the Legislature to interfere with vested rights; but as one member of that committee, I have no particular objection to its being stricken out.

Mr. SECOMBE. I suggest to the gentleman from Steele county, to allow the vote to be first taken upon the motion of the gentleman from Chisago (Mr. STANNARD,) to strike out the whole section.

Mr. COGGSWELL. I withdraw my amendment for that purpose.

Mr. GALBRAITH. Before the motion to strike out is put, I have a word to say. I am perfectly indifferent, to say the least, about it, except to this extent, that I do not see what effect the section will have. It may be that it will show our good intentions. It seems to me very much like the man saying to his son, "here, you go and do this, and if "you don't please, you need n't." It says, "corporations for purposes other than bank-"ing may be formed by general laws"—that is, the Legislature shall have the power. Is that conferring a power upon the Legislature, which they did not possess? If they did not possess it, that part is all well. "But shall "not be created by special act except for mu-"nicipal purposes, and in cases where in the "judgment of the Legislature the object of "the corporation cannot be attained under "general laws." Now here the Legislature are constituted a jury to judge of the facts, and they will judge of them from the representations of those desiring corporations; and there are no persons desiring corporations but what want special charters. Most of the old States have these general corporation laws now, and yet every corporation goes right to the Legislature and asks for a special charter. We have a general law now upon the statute book of this Territory, and I defy any man to form a corporation under it, worth anything. For the Legislature to form a general law at one session, which will cover manufacturing, mining and lumbering business, is impossible. But say you, they can alter and amend. Of course they may, but they must alter or amend it at every session, or they defeat the objects the corporations desire to attain. If it is our intention to say that no special act shall be passed, let us say so, and that will do, and will tie the Legislature's hands. The only difficulty I have in voting for the section is, that I cannot see that it is anything but permissive. This does not make it compulsory upon the Legislature to pass a general law, if they choose not to do so. And suppose they should go to work and pass any number of special charters, would this section prohibit them? Not at all. What, then, the need of the section? Is there any rule laid down by which you could test the judgment of the Legislature? Suppose they pass a special charter for an iron company, and somebody contests the constitutionality, how would you bring it before the Supreme Court under section six? It only shows the good will of this Convention. That is the only objection I have to it. It can do no harm.

Mr. WILSON. As this section has been said to be an unusual one, I would like to refer to a few Constititutions upon that point —that is upon the latter part of it. It is not by any means a new provision, though I know that many Constitutions have no such provision in them. I think it is perfectly right, and a wholesome provision. Look at the influence of many of those corporations. How many States would be glad to circumscribe them? The Constitutions of New York, Michigan, and Wisconsin, have each this same provision. As said by the Chairman of the committee, it will not interfere with vested rights, nor will any person say

so, after looking at it. It merely gives the Legislature the power, after the granting those corporation powers, to modify those powers if necessary.

Mr. GALBRAITH. I would ask whether the Legislature, without such a clause as this, would not, in all cases, have the right to alter or repeal, provided they did not interfere with vested rights?

Mr. WILSON. I do not think they would. They cannot change, alter, modify or repeal, unless the other party permits them so to do. I believe the Legislature has no right to interfere with any charter, unless that charter itself contains a clause, that they shall have the right to do so.

The question was then taken on the motion to strike out section six, and it was not agreed to.

Mr. COGGSWELL. I now move to strike out the following words from section six:

"All general laws or special acts passed in pursuance of this section may be altered from time to time or repealed."

Mr. STANNARD demanded the yeas and nays, but they were refused.

The amendment was agreed to.

And then the report was ordered to be engrossed for a third reading.

Mr. THOMPSON moved, (at half past four o'clock) that the Convention adjourn.

The motion was not agreed to.

IMPEACHMENT AND REMOVAL FROM OFFICE.

On motion of Mr. COLBURN, the Convention resolved itself into a committee of the Whole, (Mr. HAYDEN in the Chair) upon the report of the committee upon Impeachments and Removal from Office. (For report see proceedings of July thirty-first.)

The report was read through by sections for amendment.

Mr. BALCOMBE. I move to strike out section six. The section is as follows:

"For reasonable cause, which shall not be sufficient ground for the impeachment of a Judge, the Governor shall remove him on a concurrent resolution of two-thirds of the members elected to each House of the Legislature; but the cause for which such removal is required shall be stated at length in such resolution."

I hardly think it is necessary to give the Governor and the Legislature the power of removing a judge, where there is not sufficient ground of impeachment. There seems to be too much verbiage in this report, and I would like to get rid of as much of it as possible. That section, at any rate, seems to me to be unnecessary.

Mr. SECOMBE. I hope the motion will not prevail. I believe it is a very necessary provision. There are cases where there would not be considered sufficient legal cause for impeachment; or in other words, where an impeachment would not be successful, wherein the sense of the community would demand a removal. I do believe that it is necessary to have this section retained. Cases of successful impeachments of judges, either by Congress, or by the Legislature of any State, are very rare, and yet I believe there are plenty of cases where judges ought to be impeached; or if they cannot be impeached, ought to be removed. And the restriction here is of such a nature that I do not think it would be injurious to the cause of justice. It requires the concurrent resolution of two-thirds of the members of each House.

The motion to strike out was not agreed to.

Mr. SECOMBE moved to add the following additional section:

"SEC. 8. No person shall be removed or suspended from any office, without first having had notice in writing of the specific charge or accusation preferred against him and opportunity to be heard in his defence."

The amendment was agreed to.

Mr. MORGAN. I move to amend section seven by inserting the word "general" before the word "law," so that the Legislature shall provide by *general* law for the removal of county and township officers. The object is to prevent the Legislature from making a special law to apply to a particular case.

The amendment was agreed to.

Mr. MANTOR moved to strike out from the third section the words:

"No impeachment shall be tried until the final adjournment of the Legislature, when the Senate shall proceed to try the same."

The amendment was agreed to.

Mr. GALBRAITH. I move that the committee rise and report the report and amendments to the Convention.

Mr. COGGSWELL. I hope the gentleman will withdraw that motion until I can move to

insert certain words which I find in the Wisconsin Constitution, for I wish this to be exactly like that. (Laughter.)

Mr. GALBRAITH withdrew his motion.

Mr. COGGSWELL. I move to amend the third clause of section two relating to the disqualifications arising out of impeachment, by inserting after the word "office," the words: "and disqualification to hold any office of "honor, profit, or trust under the State."

Mr. MORGAN. I am opposed to that amendment. It seems to me, if the Legislature should impeach a Governor and remove him from office, and the people should subsequently elect him to be Governor of the State, he ought to be able to hold that office, and not be deprived of that privilege because a part of the Legislature perhaps, had impeached and removed him. Cases might occur where from political acrimony, and difficulties grown up between a Legislature and some officer of State, they had proceeded to impeach him, and the people might not sustain the Legislature, but the other party. It strikes me that in such a case, the will of the people should be obeyed and the officer be allowed if subsequently elected to office, to hold it.

The amendment was not agreed to.

And then, on motion of Mr. GALBRAITH, the committee rose and reported the report and amendment to the Convention with a recommendation that the amendment be concurred in.

The question was severally taken on the amendment made by the committee, and they were respectively concurred in.

The report was then ordered to be engrossed for a third reading.

REPORT OF COMMITTEES.

Mr. WILSON from the committee on Judiciary made the following report which was read a first and second time and laid on the table to be printed, viz:

SEC. 1. The Court for the trial of impeachments shall be composed of the Senate. The House of Representatives shall have the power of impeaching all Civil Officers of this State for corrupt conduct in office, or for crimes and misdemeanors—but a majority of all the members elected shall concur in such impeachment. On the trial of an impeachment against the Governor, the Lieutenant Governor shall not act as a member of the Court. No Judicial Officer shall exercise his office after he shall have been impeached until his acquittal. Before the trial of an impeachment the members of the Court shall take an oath or affirmation truly and impartially to try the impeachment according to evidence, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in case of impeachment shall not extend further than to removal from office, or removal and disqualification to hold any office of honor, profit or trust, under the State, but the party impeached shall be liable to indictment, trial and punishment according to law.

SEC. 2. The Judicial power of this State both as to matters of law and equity, shall be invested in a Supreme Court, Circuit Courts, Probate Courts, and in Justices of the Peace. Municipal Courts of limited Criminal and Civil jurisdiction, may also be established by the Legislature in Cities —*Provided*, That Municipal Courts shall not have jurisdiction in their respective municipalities to exceed the jurisdiction of Circuit Courts, in their respective Circuits. The Judges of the Municipal Courts shall be elected by the qualified electors of their respective jurisdictions, and for a term not longer than that of the Judges of the Circuit Courts.

SEC. 3. The Supreme Court shall consist of three Judges, a majority of whom shall constitute a quorum and a concurrence of two of said Judges shall in all cases be necessary to a decision. The Judges of the Supreme Court shall be elected for the term of nine years.

SEC. 4. The Supreme Court except in cases otherwise provided in this Constitution shall have appellate jurisdiction only; but in no case removed to the Supreme Court, shall have a general supervisory control over all inferior Courts. It shall have power to issue writs of *habeas corpus, mandamus, prohibition, quo warranto, certiorari*, and other original remedial writs, and to hear and determine the same; its jurisdiction shall be co-extensive with the State.

SEC. 5. The State shall be divided into three districts—such districts shall be formed of contiguous territory, as nearly equal population as, without dividing a County, the same can be made. One of the Judges of the Supreme Court shall be elected by the qualified electors of each district, and he shall reside therein during his continuance in office.

SEC. 6. The office of one of the Judges shall be vacated at the expiration of the third year—of another at the expiration of the sixth year—of the third at the expiration of the ninth year, so that one of the Judges of the Supreme Court shall be elected every third year.

SEC. 7. The Secretary of State, on receiving the official returns of the first election shall proceed immediately in the presence, and with the assistance of two Justices of the Peace to determine by lot, among the three candidates having the highest number of votes in their respective districts, which of the Judges elect shall serve for the

term of three years, which shall serve for the term of six years, and which for the term of nine years; and the Governor shall issue commissions accordingly. And the Judge whose commission expires in three years shall be Chief Justice during his term of office, and after him the Judge senior in commission shall be Chief Justice.

SEC. 8. The Supreme Court shall upon the decision of every case give a statement in writing of each question arising in the record of such case and the decison of the Court thereon.

SEC. 9. The Legislature shall provide by law for the speedy publication of the decisions of the Supreme Court under this Constitution. All Judicial decisions shall be free for publication by any person.

SEC. 10. The Supreme Court shall hold at least one term annually in each district of the State at such time and place as may be provided by law.

SEC. 11. There shall be chosen by the qualified electors of each district of the State, one Clerk of the Supreme Court, who shall hold his office for the term of three years, and until his successor is duly elected and qualified. *Provided*, That a Clerk of the Circuit Court may be elected Clerk of the Supreme Court, and the Judges of the Supreme Court, or a majority of them, shall have the power to fill any vacancy in the office of Clerk of the Supreme Court, until an election can be regularly had.

SEC. 12. The Circuit Court shall have original jurisdiction in all matters, civil and criminal within this State, not excepted in this Constitution, and not prohibited by law, and appellate jurisdiction from all inferior Courts and tribunals, and a supervisory control of the same. They shall also have power to issue writs of *habeas corpus*, *mandamus*, *injunction*, *quo warranto*, *certiorari*, and other writs necessary to carry into effect their orders, judgments, and decrees, and to give them a general control of inferior Courts and tribunals within their respective jurisdictions.

SEC. 13. The State shall be divided by counties into six judicial circuits. A judge for each circuit shall be elected by the voters thereof for the term of six years. He shall reside within the circuit for which he was elected during his continuance in office. The Legislature may by law, increase the number of circuits as may become necessary.

SEC. 14. Each circuit judge shall hold Court at least twice a year in every county within his circuit organized for judicial purposes. The judges of the circuit court may hold terms for each other, and shall do so when required by law.

SEC. 15. There shall be elected by the qualified electors of each county organized for judicial purposes one clerk of the circuit court, who shall hold his office for two years, and until his successor shall be elected and qualified. The judges of any circuit court shall fill any vacancy in the office of clerk until the same can be filled by an election. The county clerk may be chosen or elected clerk of the circuit court.

SEC. 16. No person shall be eligible to the office of judge of any court of this State, who is not a citizen of the United States, who shall not have resided in this State two years next preceding his election, and who shall not at the time of the election be a qualified elector of the district, circuit or county, in which he may be a candidate for election; nor shall any person be elected judge of the supreme court who shall not have attained the age of thirty years; and no person shall be eligible to the office of judge of the circuit court until he shall have attained the age of twenty-six years. *Provided*, that at the first election under this Constitution a longer residence in this State than one year shall not be required in order to be eligible to the office of judge of any court.

SEC. 17. The judges of the supreme and circuit courts of this State shall receive at stated times a compensation, which shall not be diminished during their continuance in office.

SEC. 18. There shall be elected in each judicial circuit, by the voters, thereof, a prosecuting attorney, who shall hold his office for the term of two years, and until his successor is elected and qualified, and his duties and compensations shall be prescribed by law.

SEC. 19. There shall be estahlished in each county organized for judicial purposes, a probate court, holden by one judge, elected by the voters of the county, who shall hold his office for the term of two years, and until his successor is elected and qualified. He shall receive such compensation as shall be prescribed by law.

SEC. 20. The probate court shall have jurisdiction in probate and testamentary matters, the appointment of administrators and guardians, the settlement of the accounts of executors, administrators, and guardians, and for the sale of lands by executors, administrators, and guardiana, and such other jurisdiction in probate and testamentary matters as may be prescribed by law.

SEC. 21. The supreme court, circuit courts, and probate courts shall be courts of record and have a common seal.

SEC. 22. The several judges of the supreme and circuit courts, and of such other courts as may be created, shall respectively have and exercise such power of jurisdiction at chambers as may be directed by law.

SEC. 23. The Legislature shall have power to vest in the clerks of the supreme and circuit courts, or of such other courts as may be established by the Legislature, authority to grant such orders and do such acts as may be deemed necessary for the furtherance of the administration of justice, but in all cases the powers thus granted shall be specific and determined.

SEC. 24. In case the office of any judge shall become vacant before the expiration of the regular term for which he was elected, the vacancy

shall be filled by appointment of the Governor until a successor is elected and qualified, and such successor shall be elected for the unexpired term at the first annual election that occurs more than thirty days after the vacancy shall have happened.

SEC. 25. A competent number of justices of the peace shall be elected by the electors in the several counties. Their term of office shall be two years, and their powers and duties shall be regulated by law.

SEC. 26. There shall be an attorney general elected by the voters of the State, whose term of office shall be two years, and until his successor is elected and qualified, and whose duties shall be prescribed by law.

SEC. 27. All judicial officers shall be conservators of the peace in their respective districts.

SEC. 28. If any cause shall be pending in the supreme court in which any two of the judges thereof shall be personally interested, the Governor shall appoint competent persons to act as judges during the trial of such cause, in the place of the judges thus interested.

SEC. 29. The style of all process shall be "The People of the State of Minnesota," and all prosecutions shall be conducted in the name and by the authority of the same.

And then, on motion of Mr. NORTH, (at five o'clock and ten minutes) the Convention adjourned.

TWENTY-SECOND DAY.

THURSDAY, August 6th, 1857.

The Convention met at 9 o'clock, A. M.

Prayer by the Chaplain, Rev. E. D. NEILL.

The journal of yesterday was read and approved.

REPORTS.

Mr. LOWE, from the committee upon State Seal and Coat of Arms, made the following report, which was read a first and second time and laid upon the table to be printed, viz:

"Your committee would report that they have taken the subject devolved upon them into consideration, and have procured a design for a Seal and Coat of Arms, from a competent person, and would recommend the adoption of the same. For a more particular knowledge of the device your committee would refer to the design itself which accompanies this report, but would say in general that it represents a waterfall, (supposed to be that of Minnehaha,) within a shield. This part of the device is intended to symbolize the idea of water, for the amount and varied forms of which Minnesota is distinguished above any other part of our country, and probably above any other part of the world. In addition, is represented the figure of an Indian, with his face turned towards the setting sun, and with his tomahawk and bow and arrows at his feet. Opposite the Indian is the figure of a white man, with a sheaf of wheat and some of the implements of agriculture at his feet. The Indian is represented as asking of the white man, by an imploring gesture, whither he shall go, and the white man is responding by pointing to the implements of agriculture, as indicating that he must now assume the habits of civilized life. In one corner of the field appears a distant view of Lake Superior, with a ship in sail. In another is a view of a river, (which may be supposed to be the Minnesota,) running to the westward, with a steamboat ascending its stream. In rear of the shield and waterfall, three pine trees are placed, which are typical of the three great pine regions—the St. Croix, the Mississippi, and Lake Superior.

"For a motto to accompany the words, 'State of Minnesota, A. D. 1857,' which are placed upon the upper rim of the seal, only two phrases have suggested themselves to your committee as suitable. One is the expression from one of the Latin poets. '*Fulget intaminatis honoribus;*' which may be thus translated: She, or it, (Minnesota) shines or is refulgent with untarnished honors. This would be more significant and appropriate than most of the Latin mottoes placed upon the seals of the States, but the one the committee have placed upon the design accompanying the report, and which they recommend for adoption, is taken from a celebrated speech of one of the greatest of our Orators, and which, as giving expression to the two great ideas which have always swayed the American mind, and always must sway it, they think well worthy to be forever linked with the fortunes and memory of the State of Minnesota. '*Liberty and Union, now and forever.*'

"The committee would remark that the principal feature of the seal, that of the waterfall has been suggested to them by a number of the members of the Convention. For the accessory features of the seal, they are indebted in great part to the suggestion of an artist and designer of this city, to whom they are happy, on this occasion, to acknowledge their obligations—Mr. R. Ormsby Sweeney."

Mr. KEMP, from the committee to whom was referred the subject of official salaries, made the following report, which was read a first and second time and laid upon table to be printed, viz:

"That as many, if not all other reports, in which there is reference made to State Offices, they have provided for the compensation of the same by leaving it to the Legislature.

"We would therefore merely recommend:

"That all salaries of State Officers shall be fixed by the State Legislature at its first session. With this recommendation your committee would respectfully ask that they may be discharged."

ELECTIVE FRANCHISE.

On motion of Mr. COLBURN, the Convention resolved itself into a committee of the Whole, (MR. SMITH in the Chair) to take into consideration the report of the committee on the Elective Franchise.

(For report, see proceedings of July 30.)

The first section of the report was read as follows:

"SECTION 1. Every white male inhabitant of the age of twenty-one years and upwards, (excepting persons under guardianship, and persons of unsound mind) who shall have resided in the State six months, and town, ward or precinct, in which he may claim the right to vote, ten days next preceding any election shall be entitled to vote at such election, if he be a *citizen of the United States*, or if he has been an inhabitant of the United States for two years next preceding the election at which he may claim the right to vote; or if he shall be an inhabitant of this State at the adoption of this Constitution. *Provided always*, that no person of foreign birth—and not a citizen of the United States—shall be a qualified elector until he shall have declared his intention to become a citizen in conformity with the laws of the United States on the subject of naturalization."

Mr. MESSER. Mr. CHAIRMAN, I move to amend the article by striking out the word "white" in the first line, and upon that amendment I desire to submit a few remarks.

The sentiment declared in the Declaration of Independence that all governments among men derive their just powers from the consent of the governed; that all men are created free and equal; I am aware are called by modern sages, rhetorical flourishes. But I believe they are sentiments which will flourish long after the author of them has been forgotten. Sir, I believe that in the insertion of this word white into our Constitution, we should be adopting a principle which would be striking at the dearest rights a man can enjoy under our government—the elective franchise. The word "white," in this connection, has practically no meaning, although it refers to men of color, or descendents from the African race. But there is nothing definite in regard to it, as might easily be shown.

I wish to allude to some of reasons which are urged by those who would insert this word here, why it should be so inserted. One reason which I have heard urged by members of this body, and which I hear urged everywhere, where this question is discussed, is that those to whom it applies are negroes. When you ask why they should not enjoy the right of elective franchise, you are told that they are negroes. That is the alpha and omega of their objection. Now sir, this reason, potent as it may be in the minds of those who urge it, is no reason in my mind why that class should be deprived of this highest privilege under our government.

Another reason urged is that the colored man is inferior to the white man; that he was made such by his Creator, and therefore he should not enjoy that privilege. In despotism the principle is that "might makes right;" but under a Republican form of government justice holds the scales, and the poor man's vote weighs as much as the rich man's. The vote of the humblest individual in the community, poor though he may be, ignorant and unlettered as he may be, will weigh as much as the vote of the wisest statesman in the government. And this principle is acknowledged here in this body.

I do not propose to consume much of the time of this Convention, because I know there are other gentlemen in this body better qualified than myself to discuss this question; but I desire to urge a few reasons why this word should be stricken out, and why the class of persons it proscribes should enjoy this right of suffrage. In the first place, he has committed no crime which should disfranchise him. He is responsible to this government, and amenable to all its laws, for his acts, and, therefore, he should have a voice in its formation. It is said, in that declaration which I have quoted, that "all governments among men derive their just powers "from the consent of the governed." I am not disposed to discuss here whether colored persons are men or not. I believe it is conceded in this body, that an immortal spirit, a human soul, may exist under a black, an olive, or a white skin. Our revolutionary fathers acknowledged that principle in the declaration of independence; and could those lips speak now, they would acknowledge that principle here to-day.

My second reason is, that colored men stood shoulder to shoulder with white men upon the battle-fields of the revolution. His blood, equally with that of the white man, enriches the soil of our common country.

But while the white man was rewarded with pensions while living, and monuments of marble when dead, the colored man has been chained, fettered, and deprived of the dearest rights which can be enjoyed under this government—the right of suffrage.

The justice of the colored man's claim is acknowledged here; but say gentlemen, it is not policy to strike out this word. I should like to know whether it is our best policy to barter truth for falsehood, and whether we should make anything by compromising the truth? In every trade made with Satan, man has been cheated, from Eden to Minnesota, and ever will be. If we attempt to barter away what we know to be right, for what we know to be wrong, I believe we shall be cheated. (Hear! hear!) Are we fearful that the colored man will gain an ascendency in this country? I do not fear it; and though I did fear it, I would still argue upon the side of justice, and would give all the races upon the earth a fair field, and not attempt to throw obstacles in the way of the elevation of any race. Let the force of intellect and mind carry them up to the highest point of their development.

I believe, too, that by striking out this word we shall gain strength in presenting our Constitution to the people of the Territory. By striking it out, we shall make our Constitution a Sampson in strength; but with the word in, a Sampson shorn of his locks, and the sport of the Philistine Democracy. Many have told me that they would not vote for a Constitution with this word in it; and not only so, but that they would use their influence against it. I believe there is a majority in this Territory who are opposed to the principle which the insertion of this word establishes. I sincerely believe it, and I think we shall find it to be so.

Furthermore, I believe that if two Constitutions are to be submitted to the people, there should be some point of issue between them, and that we should start out with the advantage which this principle, which I propose to establish, will give us; and that we should be able to say to the people that we present them with the very best Constitution which it was in our power to frame, and one which we believe they will approve of. Though we should send out a Constitution containing a principle which we know to be wrong, yet there is a tribunal before which this Constitution must go to be ratified—the tribunal of conscience, and the tribunal of Heaven; and if it is not ratified there, it will sooner or later be amended. It cannot stand. There is no principle but that of truth and justice which will stand the test of time. It may stand for to-day, but sooner or later, truth must triumph. Though we should fail to-day, let us stand upon those principles which must ultimately triumph, and which our consciences, and our God will approve.

Mr. MANTOR. I have been looking with considerable anxiety from day to day, since this body assembled, to see this report of the committee upon the Elective Franchise, and I promised myself, when the time should arrive for the consideration of this important matter, that I should be found advocating the motion which is now before the committee—the motion to strike out this word "white." But I find myself, from a prostration of my physical system, unable to advocate this measure, as I could desire. Therefore I shall proceed to make only a very few remarks, and in what I do say, I wish to have it understood, now and forever, that I am following out the dictates of my head and my heart. There is no question which has come before this body, which has given occasion for so much feeling and anxiety, as this one of striking out the word "white" from the report of the committee upon the Elective Franchise. It has given rise to great political, as well as moral feeling.

Mr. PRESIDENT, were we here under different circumstances, I should not attempt, at this time, to adduce some arguments which I propose now to do; but when I look around me, and see a body of men, who are opposed to all kinds of oppression, shrinking from advocating their real sentiments upon this subject, from the nonsensical fear which some persons have, that we shall not be able to carry our Constitution before the people, I must say something. Many members of this Convention cannot extricate themselves from the dilemma in which this question places them, except by the miserable pretext of policy. The proposition is to strike out the word "white" and thereby leave the Constitution free from that odium and reproach to which so many Constitutions are subjected. This

word, when inserted in the Constitution is fraught with much meaning. It signifies a restraint of liberty; and upon account of what? The color of the skin. When this word is stricken out of the Constitution, that instrument means a very different thing. It would then extend equal suffrage and equal rights to all. The idea of an equality of rights seems to have been the idea which prompted a Washington, a Madison, a Monroe, a Jefferson, a Franklin, and a host of venerable men, to rise and strike off the head of tyranny and usurpation which seemed to be brooding over them. We have incorporated into our Bill of Rights those remarkable words that "all men "are endowed by their creator with certain in- "alienable rights, among which them are life, "liberty and the pursuit of happiness," but now the idea of conferring upon the colored man such grave rights, seems to some men to be preposterous. We have been taught to look upon colored men in a ludicrous light.—We find it difficult to give them a place in our affections and esteem. We have looked upon them as persons with whom we have nothing to do, except to employ them in menial offices for our benefit,—upon whom we are to bestow nothing, but from whom we are to expect everything. It is not easy therefore, to secure for them rights which they really desire. Now it seems to be admitted here, that colored men possess all, or nearly all the natural qualities which go to make them equal to us. They possess, in common with us, the faculties to perceive, to appreciate, and to admire. The black man has a mind to reflect, and to adore. He has the body of a man, the functions of a man, and the mind of a man. He has a heart which beats in sympathy at the afflictions of his fellow man. He is fed with the same kind of food, warmed by the same sun and breathes the same air. Prick him and he will bleed, tickle him and he will laugh, and administer to him the poisoned chalice and he will die. If then he has a nature like ours, let us seek to elevate him through this Constitution. If we do not, let us secure him, at once, a kingdom by himself. Down-trodden as he may be, let him have a sun of his own. But do not, you proud autocrats of the Territory of Minnesota, place your iron heel upon the colored man, and swear that he does not possess any vested rights, which you are bound to respect. To strike out the word "white" from the Constitution, and leave it to the people to say whether they will or will not accept it, wil not be hazarding the reputation of a body of men whose opinions I very much admire, and whose calm deliberations and judgment I very much respect. I mean the Republican party, which this day possesses a political faith pre-eminently above all fractional and sectional parties,—a party which I have been taught to believe to be right upon all questions of political importance. With the people I am willing to rest the whole thing.

But sir, to make a man's political rights dependent upon his color, is whimsical and arbitrary. You might as well object to a man's possessing the right of suffrage because he happened to be born on the last day of the year, or because he was not born on the fourth day of July. It would be just as reasonable as to exclude a man from the right because he happens to be black. It is but a very few years since a large number of men throughout the country declared that they dissolved all connection with that class of men who happened to be foreign born, and their political rights were proscribed on account of their foreign birth. That class of proscriptionists assumed a political name, and established certain signs whereby they might know each other in the dark as well as in the light. "Know-Nothingism" was inscribed upon their banner, and their motto was "The flag 'of our Union." That political party soon 'began to win. But a revulsion soon took place, and popular opinion began greatly to change, and that whole political party will soon sink to the earth. And I am astonished in looking at this report to find the names of three men attached to it who are of foreign birth. Now, gentlemen, I appeal to you today to think upon this subject. How is it that men, who a few days ago, as it were, were proscribed in this very respect, come now before this body and attach their names to a report which will disfranchise a certain portion of our citizens? But, sir, those who oppose equal suffrage to colored men, possess less liberality even than those who proscribe foreigners. The one proscribes on account of foreign birth, and the other proscribes on ac count of color, not foreign. Suppose we

were disposed to carry this principle out at length, and declare that a man, in order to become an elector in the State of Minnesota, should have dark hair, blue eyes and red whiskers? How many members of this Convention would indulge in ideas of that kind? It would be simply ridiculous. But mark you, all the above qualities are strong marks of the Anglo-saxon race. And yet that would be quite as reasonable, as to proscribe on account of color.

I ask any man what objection there is to striking out the word "white?" I am answered that policy, that outside influences, demand that we should retain that word: that this Constitution which we are framing is to go before the people for their adoption or rejection, and that in order to meet the wishes and views of the masses, this word should remain where it is: that if it is stricken out, it would be a sure defeat of the Constitution. But, sir, I have yet to learn that men are to barter principle for policy. It has been done many times to attain certain ends, yet I have no right to trample upon the personal rights of men.

But I am reminded here of that oft used argument, that a temporising policy is better than defeat. Let me answer that argument in the language of the immortal CLAY, "better be right than to be President." Then let us throw off this disguise of policy, and wash our political garments while in the waters of Jordan. Let us snatch one coal from the smoldering embers upon the altar of liberty, and apply it here, that we may be enabled to say to our constituents, when we go home, that we present to them a Constitution which has been renovated by fire.

It has been provided in some of our New England States that a colored man may vote by being the owner of, and paying a tax on, a certain amount of property. While I am opposed to all property qualifications for voting, I cannot but think that such a privilege would be valuable, even if it were encumbered by such a restriction. By leaving this word in the Constitution, and giving countenance to this distinction, we place a stain upon our State which will not easily be wiped out. It is a policy which will lead to crime, because we could expect nothing better of that race of men than that they should desire to be the avengers of the wrong committed upon them in this way. We have been taught to regard liberty as national and not sectional. Who can wonder then that I should be surprised when I see a disposition manifested here, from outside pressure, to encumber this report with the word "white." Do not, by this, believe, that I fear that Minnesota will be a slave State, and that our free-soil will be contaminated with this national curse. While I am a firm believer in the right of free suffrage, and free Territory to all, I still desire to look at the interests of every class of people who settle in our Territory, and to make a Constitution which shall be as clear from every thing which would be objectionable to the people, as we can. When we have done that, we have done all that can be required of us. When we have accomplished that, Minnesota with her broad prairies, her wood land, her waters and her thrice loved clime, will invigorate the body and enliven the soul of every weary traveler in this our thrice prosperous and happy state.

Mr. FOSTER. I offer the following substitute for section one:

"SEC. 1. Every white male person of the age of twenty-one years and upwards, (excepting persons under guardianship, *non compos mentis*, or insane) belonging to either of the following classes, who shall have resided in this State for six months, and in the town, ward or precinct, in which he may offer to vote, for ten days next preceding any election, shall be deemed a qualified elector at such election, viz:

"*First.*—Citizens of the United States.

"*Second.*—Every person of foreign birth who shall exhibit a certificate from a proper court of record that he has declared his intentions to become a citizen of the United States in conformity to the laws of the United States.

Third.—Civilized persons of Indian descent, not members of any tribe."

I am not going to make a speech of any length upon this subject, but in offering the amendment I would say, that while retaining, in pursuance of deliberations heretofore had, the word "white," I am one of those who hold to the principle of the common rights of humanity without regard to birth-place, or to creed, or to complexion. Dr. Franklin, I think it was, alluding to the early times of the country, when one of the qualifications of a voter in a certain part of the country was that he should own a mule or a jackass, put

the question whether, in that case, it was the man that voted, or the jackass? Now it strikes me that in requiring a certain shade of complexion as a qualification for voting, we put mankind pretty nearly in the same predicament. Complexion has nothing to do with a man's mental capacity; nothing to do with his political efficiency; and nothing to do with his ability to serve the State, either in the councils of the nation, or upon her battle fields. A man may be other than white, and yet not be an African. Instead of belonging to the Caucassian race, which is pure white, he may belong to the Malay race, or the Indian race, and yet he may be competent to perform all the duties which the law requires of him as a citizen. This prejudice of color appears to me most contemptible and foolish. Because a man may happen to have a certain dark shade of complexion, or because his forefathers may have been in a degraded condition, not because of their own act, but because some superior power or brigand force may have been brought to bear upon them; to say that for any such reasons, he and his descendents shall for all time to come, have no rights which the white man has, is a doctrine unworthy of high-minded and intelligent beings, and I have no sympathy with it. And while I express myself in this way, and would like to see a different state of things, yet in framing this Constitution and submitting it to the people, we have not only this, but other ends to attain, and other objects to accomplish. I am in favor of discussing this question, and of educating the people up to the mark; but as public men and statesmen we have got to take the people as they are, and for the time being, to do, not all the good that ought to be done, but all we can do. And it is upon that ground, and that only, that I am willing to consent to admit the word "white" in the Constitution, for I do not believe the people are quite up to the highest mark of principle: the force of prejudice is yet so great among them. I am willing to go as fast as I can, but because I cannot get all good, I am not willing to say that I will not have any thing which is good. I am in favor of inserting the word "white," purely upon the ground of expediency, and I am not ashamed to say it. It is extremely desirable, in view of the contest in which the nation is engaged, that Minnesota should not be delayed from coming into the Union at the earliest possible moment. We all can see that freedom is going to gain practically in the councils of the nation by Minnesota coming into the Union as soon as possible. A great contest is going on between the antagonistic powers of slavery and freedom, for the plains of the West; and going on, not only for that purpose, but to wrest the national government from its proper purposes, and to establish the principle that the Constitution of the United States is a Slave Constitution, and that its adoption was simply and solely to protect the institution of slavery. Such are the doctrines now broached, and a great contest is now waging upon those principles, and it is important that Minnesota should come in, so that her voice and influence may be cast in the scale of freedom. That is the practical effect I wish to accomplish. If we go to Congress with two Senators upon the floor of the Senate, and our members in the House, all upon the side of freedom, we accomplish more for the cause of freedom—freedom for the white and freedom for the black—than we should by engaging here in a vain contest upon an abstraction, and thereby fail in all these great objects we have in view.

As I said before, I am willing to attain the greatest good I can for the time being, and with that desire you will see that I have put into that amendment a provision that civilized persons of Indian descent, not members of any tribe, shall be electors. Some may object to that, on the ground that it allows persons of a particular class, not white, to vote, while we exclude another class, not white, from the same privilege. I feel disposed to recognize the objection to its fullest extent. But in obedience to the principle I have declared, of attaining as much good as possible for the time being, and endeavoring to educate the people to going as far as they ought, I am willing to allow half-breeds to vote. The people, I think, are willing to go that far. Indeed, it would be great injustice to that class of people, after having enjoyed the privilege of voting for so long a time, to refuse them that privilege, now or hereafter, simply because we cannot extend to another race, against whom the people have great prejudices, the same privilege. At the same time that I am for doing whatever is right,

yet because I cannot get all that is right for one, I am not for doing wrong to another. When, under all the circumstances, the people are willing to admit this class to the privilege of voting, I am not for excluding them, because another class is excluded.

There is another point in which the amendment differs from the original. My substitute provides that every person of foreign birth, who has resided in the State six months, who has declared his intention to become a citizen of the United States, conformably to the laws of the United States, and shall exhibit a certificate from a proper court of record that he has so declared his intention, shall have the right to vote. That is the system which has heretofore prevailed in this Territory, and I think it would be sound policy to adopt it in our Constitution. A clause in regard to the evidence by which the fact is proved—that is, the exhibition of the seal of a court of record, should be placed in the Constitution. It is, after all, only going back to the common law axiom, that the best evidence which is extant, shall be produced in every case. In the State of Pennsylvania, I think, without any legislation, it was always held that a person at the polls should produce his certificate of naturalization, because that was the best evidence the case admitted of. But if you allow, as you have heretofore, foreigners to come up and swear that they have declared their intentions, it would be objected to on the part of many. The trouble is this—take St. Paul, for instance: There are, perhaps, many persons here—I need not designate the particular class—to whom such an oath is considered of the character of what they call, in smuggling, custom-house oaths; who consider that a man commits no sin in taking and breaking them. There is no difficulty in getting any number of such men. Sometimes you may find those whose consciences prick them a little, but there are always enough of them to accomplish the object sought by those who desire to have them vote. For that reason, I am in favor of requiring the certificate as evidence of the fact of declaration of intention.

In another point, my substitute differs from the original which requires a residence of two years in the United States, six months of which shall be in the Territory. The substitute does not require that. It simply requires that they shall have declared their intention to become citizens, and prove that by their certificates under seal; and shall have resided in the State six months, and in the precinct in which they may offer to vote, ten days. Then they are entitled to vote. Such is the rule in our elections now. If you put in a two year's residence, the remarks I made in regard to oaths, would apply to that, because a man who would falsely swear that he had declared his intentions would find no great difficulty in lumping in an oath that he had resided two years in the United States. While such a provision would operate as no bar to polling votes in the cities, yet in the country, among the foreign population who have a more conscientious regard for their oaths, it would operate as an effectual bar to their voting. The law-abiding men of foreign birth, who reside, for the most part, in the country, are most likely to be Republicans. As a general thing they are, and if they are not now, they will soon be. I think our policy should be for the largest liberty upon that point.

Mr. HUDSON. While I wish to have it understood that I am willing to act with the majority, as they see fit in determining whether the word "white" shall be inserted in this place in the Constitution, yet I claim the privilege of expressing the reasons why I am opposed to it. I am decidedly in favor of striking the word "white" from this section. The great object of a Constitution should be to protect the weak. It was to secure the people against tyranny and oppression that the first Bill of Rights was ever written, in the early part of the thirteenth century, by the people of Hungary. About seven years later, for the same object, the Magna Charta—that great platform of civil liberty—was extorted from King John by the people of England.

The great principle involved in the amendment is, equal rights to all men. That principle, sir, is the fundamental principle in the Declaration of Independence. That principle is prominent in the Constitution of the United States. That principle we recognize and endorse in our Bill of Rights. That principle we propose to reject in the main part of our Constitution. That principle, sir, is Republican, and is consistent with the genius of our

government. The opposite is Aristocracy and Monarchy. Why do we propose to reject it? Not because gentlemen consider it wrong. They tell us it is not policy. Is not right, sir, always popular? It is true that it will not always secure to individuals political aggrandizement, but it will always promote the interest of humanity, and future generations will rise up to bless those who had courage to stand up in its defence.

I believe that the right of suffrage should be extended to every native-born citizen of the United States who has sufficient intelligence to read the Constitution. But if we do not propose to make intelligence the standard, I would have no standard but citizenship. What is the objection to the amendment? The strong argument is, would you introduce the negro into society? would you introduce negroes into the councils of our nations? Would you place him upon the judicial bench? Would you have him for Governor, or for President? Mr. CHAIRMAN, I have heard this argument used in the State of New York, when the question was before the people there. I heard it in Michigan, when the question was before the people there; and that argument has found its way to Minnesota. We proclaim to the world, that the United States is a home for all that may choose to settle within her borders; that they shall be governed by her institutions, that they shall help support them, and that they shall help to make them, if they are white. But we propose to trample in the dust about one-fourth of our whole population, while we proclaim equal rights to all men, and this an asylum for the oppressed.

I was about to say, Mr. CHAIRMAN, that this amendment would prevail, but I dare not hope. Pride, that progenitor of all evil, whispers in the public ear, "keep them down." But, sir, we will not despair. In the future, there is hope. Truth is mighty, and will prevail. Justice cries, "Raise them up." Humanity cries, "Raise them up." The God of Heaven cries, "The captive shall be free." I believe, sir, the time will come when universal suffrage will be extended to all men, on the basis of intelligence, and not of color.

Mr. GALBRAITH. I rise not to make a lengthy speech upon this matter. My views are known to every member here, and I wish not now to urge them. I believe those gentleman who advocate this amendment are actuated by good intentions, and I desire no better evidence of their good intentions than their wish, expressed here, to elevate those beneath them. I accord, then, to those gentlemen all they can ask as to honesty of purpose. But I do ask them when they make their arguments, not to take it for granted that the course they propose is right, and that any other course that other men see fit to pursue, is therefore wrong. I should hope that in the speeches of those gentlemen, they would argue the question, and show that they are right by argument, and not come out with bold assumptions that they are right and every body else wrong. We say that this is a debatable question--a question upon which great and good minds can and do differ. And we say further, that we, as the representatives of the people, claiming to reflect their views upon the subject, have the right to do so here, and that we act in accordance to what we believe to be the views of our constituents. Those gentlemen have the same right, but while they assume that they, and they only, are right, there should some arguments be put upon the record to show why they are right.

Let us see whether their argument does not prove too much. In the first place, they assume that the Declaration of Independence declares entire freedom for all mankind. They also declare that a man's highest state of happiness is in his right to vote. They seem to assume that the chief end of man is voting—voting. They argue, and put their own stress upon it, that the negro should vote at all hazards. Now we say it is not wise or proper, under present circumstances, to let him vote. And further, many of us are honestly of opinion, that it is not in accordance with the genius of our institutions, to assimulate the negro with us, and make him a native resident citizen of this country. Many of us believe that his home is among his fellows, and that he is a stranger among us. And so the facts prove. Gentlemen may cry out, in their affection for the poor degraded African, what they please, yet he remains among us without friends. The voice of community in this country says that the poor African is a degraded being, and hide it as we will, it is so.

An African voting! Let him vote and still he moves amongst us as an outcast. What are his social privileges here? Will we, or can we, by constitutional provisions, elevate him to a position in society the white man occupies? Who, in this Convention, with all his philanthropy, will take the negro by the hand, and lead him into his family, be he ever so good and intelligent; introduce him to his daughter, and permit him to marry her? There is a plain question. Who will do it? The seal of degradation is upon the poor down-trodden African, and years and ages must pass by before that seal can be removed. No man, I hope, would sooner see it removed than myself. But how shall we do it? Gentlemen say let him vote, and that will secure the whole thing. But does not the argument prove too much? You quote the declaration of Independence, to show that the chief end of man is to vote, and that that is a right which every man should possess. And then you bring up the argument that taxation and representation are inseparable. Why then do you not move to strike out the word "male," and "twenty-one years," from this Constitution? And you gentlemen could do it with more propriety than you could strike out the word "white." Women pay taxes in this Territory, and I am satisfied that the great body of the intelligence and the virtue of the country is bound up in the female heart, and that she is better prepared to vote correctly upon all great questions, than a majority of men, white though they be. Let the female heart express its opinion through the ballot box, and Hottentotism, if you please to call it, flies the land. There would be an appeal from the Dred Scott decision, which would go forth and make the four corners of the earth ring, and it would be answered from Heaven, and the appeal would be sustained. Let the female voice be heard, and that decision, which would have come well from a Hottentot court, would be reversed by the voice of the land. Consistency then would require you to do that, and yet who here wishes to strike out the word male? We say that females have other vocations; that it is their business to remain at home, and that it is ours to meddle in political matters. Their sphere lies in a different direction. They are our mothers, and the mothers of our children, and we would not remove them from their present sphere. But what becomes under these circumstances, of the argument that all men are created free and equal, and that the chief end of man is voting? What becomes of the argument that taxation and representation are inseparable, unless we give woman the privilege of voting?

We must, in all the circumstances of life, do what we can do, and not what we wish to do. Human nature is imperfect. We have a great beau ideal of perfection held out to go by, and we may approximate to it, and come as close to it as we can. But we must do one thing at a time and do it well. It will not do to sacrifice all the best interests of our country, because we cannot do ev-ry thing at once. We must exercise a wise policy; and a wise policy is to let women remain where they are, to educate them, to make them wise and virtuous beings to preside over the household goods of the land. Nature has marked out her position, and it is not in the power of human legislation or of this Convention to alter the fiat of nature.

But be that as it will, nature has placed upon the African a mark, which it is useless for legislatures or this Convention to try to remove. Let the negroe be elevated; let him be educated; let him be entitled to all the protection of our laws; and if our friend can raise him up to a lofty position, be it as high as the name of Washington, no one will rejoice more than your humble speaker. But the first thing is not to make him a voter. The first thing is to destroy this social inequality. How? By making him a voter? You, gentlemen, who know so much about the contaminations around the ballot box, ought to know that it is not the way to elevate a man to bring him up to the ballot box on the day of election.

While gentlemen would accuse some of us of voting upon this subject as a matter of policy, I tell them I vote upon it conscientiously, as a matter of right and policy, just as I would upon striking out the word "male." I would vote against that as a matter of right and policy, because I think what is not politic and wise can never be right. Wisdom is always right; and sound policy is always right; and to talk here of sacrificing policy

to principle, what is it! Sound policy is always composed of good principles, wise principles. Policy is wisdom reduced to system. Why then charge home on us because we say it is both politic and right to retain this word; that we are all wrong and you all right? We accord to you good intentions in advocating your views, and I hope to Heaven, the day may come when the African will rise up to the position of a man; when he may become noble and respected, and when the clanking of the chain of the same, and the accursed foot of the bondman may no more curse the soil of America. That day I hope not to see myself, but when we are dead, and right and truth will prevail, the God of battles and of peace will in his own good time, work the way and means of removing this stain from the fair escutcheon of our American States. God speed the day when that may come about, and to that end let us direct our energies. The Republican party is a unit on this one thing, and to slavery we say, "thus "far hast thou gone, but no farther."

That is the ground I stand upon. Nail our flag to the mast there, and slavery has a wound inflicted in it, which will cause its death as sure as the revolution of the earth.

Mr. MORGAN. I move to amend the second division of the substitute, by inserting after the word "birth" the words "who has resided in the United States two years."

Mr. BALCOMBE. I do not exactly see the propriety of offering that amendment, as the question now stands before us. That question is involved in a vote upon the substitute for the section as reported by the committee. The gentleman's amendment would simply put in the same language that is in the original section. That, I take it, is the main difference between the amendment of the gentleman from Dakota and the original section. The other differences are merely differences of phraseology and not of substance. I am in favor of the substitute, in place of the original section; first for the reason of the change which is proposed to be made by it; and for the further reason that it expresses the meaning intended to be conveyed, in a more concise form than the original section.

Mr. MORGAN. I am in favor of the substitute, because I think it expresses our wishes in a more direct and simple manner than the original section, and also because there is another requisition in the substitute, which I think is important; and that is that persons of foreign birth, upon offering to vote shall exhibit some evidence of their having made their declaration of intention to become citizens of the United States. But I do think there should be required a residence of not less than two years in the country.

Mr. WILSON. I do not care myself whether this substitute, as proposed to be amended, be passed, or the original section, with this exception, that I do not like that part of it which applies to Indians and those of mixed Indian blood. Whether it be an honor or a dishonor to be a foreigner, I claim no honor from it, and acknowledge no inferiority on account of it. There are a number of others in this Hall in the same position, and I, as one of that number, say I never will submit to anything wrong, nor will I ask for anything wrong—and to ask for foreigners the right of equal suffrage with American citizens, is wrong, and more than the foreign population ask for. I say this in their name, and I know this to be the fact. It is going beyond all precedent; it is bidding for a vote which, I wish to say, cannot generally be bought; and it is offering to the foreign population what they knew they should not have.

There is another difference between the substitute, and the original section, and on account of which I shall favor the original section. The original section gives to every person who is a resident of this Territory, at the time of the adoption of this Constitution, and who shall have been a resident of the United States six months, and who, if of foreign birth, has declared his intention to become a citizen, the right to vote. That I am in favor of. We are making those now residing in the Territory a general exception to the qualifications required both for officers and for voters. The emigration into this Territory has been sudden. Many foreigners have settled throughout our Territory, have borne the heat and the burden of the day, and have assisted to make Minnesota what she is, and I am in favor of extending the privilege of voting, to every foreigner who has resided in the Territory six months previous to the adoption of this Constitution. But I am op-

posed to extending the right of suffrage to those who come in subsequently, short of a residence of two years. I am opposed to the substitute, though, if it should be adopted, I hope it will be amended as proposed by the gentleman from Hennepin county (Mr MORGAN). But I prefer the original article just as it is. I do not want members of this Convention to extend any favors to foreigners which they do not think they justly merit. I think the intelligent, thinking foreign population of the United States will consider it rather as an insult than a favor. They know they are not well enough acquainted with our institutions to vote intelligently when they have been in the United States six months, or to hold office until they have been here a longer period. Why should we make such a provision? Are we not exalting foreigners over American citizens when we say they may vote after a six months residence? We do not let American citizens hold offices until they have been here two years. Why? Because we want to become acquainted with them and know what they are. Be not inconsistent. Do not hold out to foreigners any such bid, thinking they can be caught in any such trap. I am opposed to it. Let us vote the amendment down. But I do say that I hope every foreigner who has come here and helped to make Minnesota what she is, and has been in this Territory six months previous to the adoption of this Constitution, shall be permitted to vote. He is one of us. Our foreign population have done their full share in developing our Territory, and let us do full justice to them, but let us do no more.

Mr. BALCOMBE. In looking over the Constitutions of the various States, I find in the Wisconsin Constitution almost the identical language of the amendment offered by the gentleman from Dakota (Mr. FOSTER), as a substitute for the original section. The Wisconsin provision is as follows:

"Every male person of the age of twenty-one years or upwards, belonging to either the following classes, who shall have resided in the State for one year, next preceding any election, shall be deemed a qualified elector at such election:

"First—White citizens of the United States.

"Second—White persons of foreign birth who shall have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization:

"Third—Persons of Indian blood, who have once been declared by law of Congress to be citizens of the United States, any subsequent law of Congress to the contrary notwithstanding:

"Fourth—Civilized persons of Indian descent, not members of any tribe.

"*Provided*, That the Legislature may at any time extend by law the right of suffrage to persons not herein enumerated; but no such law shall be in force until the same shall have been submitted to a vote of the people at a general election and approved by a majority of all the votes cast at such election."

The third clause which I have read is left out of the gentleman's amendment.

Mr. FOSTER. That was designed to meet a peculiar local matter in Wisconsin.

Mr. BALCOMBE. The persons mentioned in the fourth clause—civilized persons of Indian descent—should, in my opinion, have the right to vote. There are many of them in the Territory, and quite a number of them living in my own district, who are property holders, who are able to read and write, and are capable, perhaps, of understanding all questions over which the two parties are at variance, full as well as a large number of American citizens. I am very much inclined—though I do not intend to make a long argument upon the question—to give them the privilege of voting.

Again, I am inclined to give persons of foreign birth the right to vote if they have been in the Territory six months, and are over the age of twenty-one years, and have declared their intention to become citizens. There is a large class of foreign persons, Scotch, English, Irish, Germans, and others who, after having been in this Territory six months, are quite as well qualified to vote as a large number of our own citizens of American birth.

Now if you are going to establish a rule, why not establish a universal rule which will apply to all cases? If you are going to lay down the principle that a man must have a certain amount of knowledge relative to the questions before the people, before he is qualified to vote, why not make it applicable to American citizens as well as to foreign born citizens? Why not say to American citizens—for we have many of them who can neither read or write, and who know nothing more about the political institutions of the country than foreigners

just come across the waters—that they shall not have the privilege of voting unless they have such qualifications? I am disposed to give foreigners who have been within the Territory six months the right to vote. I see nothing to be lost by it, and nothing to be gained by refusing them the privilege. They are property holders, and pay taxes; and why should they not have the privilege of voting?

I am in favor of the substitute again, for the reason that I prefer the phraseology. I think that the same subject matter is expresed in a shorter and more explicit manner than in the section reported by the committee.

Mr. MURPHY. I hope the substitute will not be adopted without the amendment. I come here representing a great many foreigners—being about half foreigner myself—and it is singular to me that the gentleman from Winona should state that the foreigner who has lived here but six months is just as well qualified to vote, as a native born American citizen. My father lived in America five years before he was allowed to vote, and then he had to show his full papers of naturalization. Now, it seems to me, that we are getting along pretty fast. A year or two ago foreigners had to be in the Territory two years before they could vote; and now we desire to put it into the Constitution that they shall have the right to vote after a six month's residence. That would not suit the foreigner himself. You might as well say that a boy sixteen years old is as well qualified to vote as he is at twenty-one. A boy of that age is as well qualified as a foreigner, and a good deal better, because he has lived here sixteen years; and when he is ten years of age he learns more in a year of our institutions, than a foreigner will in five. I hope the amendment of the gentleman from Minneapolis (Mr. MORGAN) will be adopted, or that we shall let the section remain as it is.

Mr. WILSON. One remark further in reply to my colleague (Mr. BALCOMBE) who spoke after me. He says this amendment is nearly word for word like the Wisconsin provision. Well it is nearly in every respect except one, and in that one respect there is a difference; that difference amounts to the whole thing. The time of residence in Wisconsin is just double—one year. And that is the best and almost the only example he can quote. I have taken some pains to look at the different Constitutions. Indiana makes one year's residence necessary. The Constitution of Illinois makes citizens of foreigners who resided in the State at the time of the adoption of the Constitution. The Constitution of Michigan has a provision not as favorable to foreigners as we propose; and California a great deal worse than ours. We as a Territory, stand better in that respect, than any Democratic State that ever came into the Union. We are taking the lead in this matter.

And as to these Irish votes I claim to know something about them, and I know that the foreigners do not wish the right of suffrage extended to them as soon as is proposed in the amendment. I say to the gentleman from Hennepin (Mr. MURPHY) that many of our foreigners, as soon as they arrive in the United States are as well qualified to vote as the citizens of the United States, because many of them are highly educated and highly intelligent men. But that does not change the reason for the general rule.

As to these half-breeds, I would extend to all of them the right of suffrage, but I am opposed to the grand frauds which have been perpetrated under color of that right. And therefore to adopt this amendment as it is, would subject us to those frauds again. This putting a coat upon one Indian, and when he has voted, stripping it off and putting it on another, and thus running them up to the polls by hundreds, I protest against, and we should have same provision to protect us against it. I know some half-breeds I would vote for as soon as for any man I know. They are high-minded men; but I would throw a guard around the right so that it cannot be abused.

Mr. CLEGHORN. As a foreigner I wish to say that I fully endorse the ground taken by the gentleman from Winona (Mr. WILSON).

Mr. COLBURN. I hope the substitute will not be adopted unless the amendment is attached to it. I think this matter of residence should be looked to particularly. I am in favor of allowing foreigners every right and privilege they can consistently claim, or that would be safe for us to give. Although I am willing to acknowledge the truth of what the gentleman from Winona (Mr. WILSON) has said—that many foreigners come here as well

qualified to vote when they first came into the country as many of our own citizens, I do not acknowledge that that is the general rule; and I think no one will attempt to maintain it as the general rule. As a general rule foreigners who come into our country, are not acquainted with the principles of our government, nor with the practical workings and operation of them. Many of them are men of intelligence and education, but their attention has never been called directly to the principles of our government so as to enable them to understand it; and certainly their attention has not been called to the practical working of those principles in their minutia. The great dificulty with foreigners when they come here, is, that they find two or three political parties, each one claiming to be the true representative of the principles of our government, and each one claiming to be the friend of that system which works best in practice. Before he can vote intelligently he has to investigate the theories of these various parties. Very few foreigners have the opportunity to do that before they come to this country. They may have heard of the parties, but they have not become familiar with their principles nor with the practical working of their theories.

Now I believe that two years is a short time enough for the mass of foreigners to become familiar with all these things; and, as the gentleman from Winona has said, the honest and intelligent portion of them do not ask the right to vote in a shorter space of time than that. If you allow them to vote in six months, and before they become familiar with all these facts, they are beset on every hand by politicians, who perplex their minds and confuse their ideas, and they know not how to act. Require of them a residence of two years, and they have time to make up their minds without being beset by politicians who crowd their peculiar views upon them. I certainly hope the amendment to the substitute will be adopted.

Mr. COGGSWELL. I have a substitute which I wish to offer for the whole report.

Mr. BALCOMBE. I rise to a point of order. The committee having under consideration the first section, a substitute was offered for it, and then an amendment to the substitute. Now I raise the point that a substitute for the whole report cannot be offered until the amendment is disposed of.

The CHAIRMAN. The Chair thinks the question of order well taken.

The amendment to the substitute was then agreed to.

Mr. McKUNE. I move to strike out the last clause of the substitute, referring to civilized persons of Indian descent, and insert the following:

"All persons of mixed Indian blood, or full blood Indians, who shall have declared their intentions to become dissevered from all Indian tribes, and to become a citizen of the United States, who can read, write and speak the English language, and shall have resided within this State five years, such residence dating from the time of filing their intentions to become a citizen, and such facts being proved, the supreme court shall grant a certificate of citizenship; and the supreme court shall be the only court competent to grant such certificate, or to judge of the qualifications of persons applying for citizenship. The first Legislature at their first session after the census of eighteen hundred and sixty, shall establish by law the qualification of voters, the basis of which shall be education; and no other qualification shall be required except such as is required by the laws of the United States, or this Constitution."

Mr. SECOMBE called for a division of the motion to strike out and insert.

The question was taken on the motion to strike out, and the Chair announced that it was decided in the affirmative, by a vote of fourteen to thirteen; when the objection was made that no quorum voted.

Mr. SECOMBE. I hope the motion will not prevail.

Mr. WILSON. I rise to a question of order. The vote has been declared, and is there any way of getting at that question again, except by a motion to reconsider?

The CHAIRMAN. The Chair did not decide it positively.

Mr. STANNARD. The question is raised whether there is a quorum present, I move that the committee rise.

The motion was not agreed to.

Mr. SECOMBE. I voted with the majority, and I move to reconsider the vote by which the committee agreed to strike out the third subdivision of the substitute.

Mr. NORTH. The gentleman voted against striking out.

Mr. SECOMBE. The gentleman is mistaken.

Mr. HARDING. There is another difficulty. There are some here who contend that as a majority of a quorum did not vote in favor of striking out, the motion was lost. In that view I hardly know how we shall get at the question again.

Mr. WILSON. I rise to a point of order.

Mr. BALCOMBE. The gentleman's point of order is out of order, because—

Mr. WILSON. The gentleman forgets himself. He thinks he is in the chair now, when in fact somebody else is. I believe Jefferson's Manual is our guide where the rules do not apply. That Manual says a committee of the Whole cannot reconsider its own vote, and if we cannot, the sooner we stop this matter the better.

The CHAIRMAN. The Chair thinks the gentleman is out of order, as the committee was dividing on the question when he addressed the Chair as to his point of order.

The question was then taken on the motion to reconsider, and it was crrried.

Mr. WILSON. Would it be in order to raise the point of order now, that the reconsideration is out of order, and therefore amounts to nothing?

Mr. NORTH. It would seem that the gentleman is too late with his point of order. It should have been raised before the thing was done to which he objects. It is out of order to raise a point of order upon a thing past.

The CHAIRMAN. The Chair thinks it is out of order.

Mr. STANNARD. I move that the committee rise.

The motion was agreed to, and thereupon the committee rose and reported progress and asked leave to sit again.

Leave was granted.

Mr. STANNARD. Rule seven of this Convention provides that no member shall speak more than twice on the same question, nor more than fifteen minutes at any one time without leave of this Convention, nor more than once until every member who chooses to speak shall have spoken. Now I wish to have this report considered in Convention, and not in committee hereafter, and I therefore move that rule number seven be suspended, so far as the consideration of this report is concerned.

Mr. SECOMBE. I would enquire of the Chair what order of business we are under?

The CHAIRMAN. The last order—the general orders of the day.

Mr. SECOMBE. Is the gentleman's motion in order.

The CHAIRMAN. After the committee of the Whole have had a bill under consideration, and reported back to the Convention, it is then in order for the Convention to consider that bill, and amend or debate it.

Mr. SECOMBE. I would enquire if it is in order to move to go into committee upon the same bill again.

The CHAIRMAN. It would be, but it would not take precedence of the other motion.

Mr. STANNARD. The object of my motion is that members may be allowed the same latitude of debate in Convention on this report, that they would have in committee of the Whole. And by being in Convention we can compel every member to vote upon the amendments, and thereby avoid the difficulty we met with a short time since.

The question was taken, and the motion was agreed to.

And then, on motion of Mr. DAVIS, (at twelve o'clock) the Convention took a recess until half-past two.

AFTERNOON SESSION.

The Convention was called to order at half-past two o'clock.

RIGHT OF SUFFRAGE.

The PRESIDENT stated that when the Convention took a recess, it had under consideration the report of the committee upon the Elective Franchise, which had been reported back from the committee of the Whole without amendment, and that amendments thereto were in order.

Mr. NORTH moved to amend the same by striking out the word "white" from the first line, which reads as follows: "Every 'white' "male inhabitant of the age of twenty-one "years and upwards," &c.

Mr. NORTH said—I desire, Mr. PRESIDENT to make a few remarks upon the amendment I have offered before the question is taken upon it. When the committee on the Elective Franchise made their report, as a member of the committee I concurred in the report,

except that I was opposed to inserting the word "white;" and I then stated that when the report should come up for consideration I would give my views upon it. This I now propose to do, though I am conscious, from my limited preparation, that I must do it very imperfectly. My first reason, and one which, to the mind, of every honest and upright man, I think must be the strongest, is, that it is *wrong* to insert that word here. I look upon it as an absolute wrong, which we, as a Convention, have no right to inflict upon any class of our fellow men. For myself, I know of no principle on which our own rights are based that does not guarantee to every other class of human beings the same rights which we claim for ourselves. If there are exceptions to this rule—particular circumstances must make those exceptions—those exceptions cannot and do not exist in the nature of things as established by the Creator. The contour of the countenance, the complexion of the face which the Creator has stamped on human beings, does not give one class the right to inflict wrong and injury upon another. It does not give us the right to say that we have rights which are natural and inalienable, and to another class, "you are deprived of those rights." The claims of equal and impartial justice are the highest claims that one class of men can make to another, and they are claims which should be regarded in a legislative body, a Constitutional Convention, or any assemblage of men where laws are to be established. The principles of natural justice should be first and above all regarded. I believe it is a principle upon which all writers on elementary law agree; that any enactment by a legislative body that contravenes natural justice, does not rise to the dignity of law; that it is not law, but an abuse of the prerogative of the law maker. If then natural justice is to be regarded in that high sense, can we avoid the consideration of this principle when we come to make a Constitution, which is more permanent than any other kind of law?

I know there are those who would cast aside all principles of higher law, that should govern men in making legal enactments, but I believe, here, again, all writers agree that human law is based upon divine law, and that any human law that contravenes divine law and absolutely requires a violation of it, is not binding upon the conscience of man. All law writers agree that there is a standard of right eternally fixed, by which all law and law makers are to be tested. If it is not so, how could we determine whether a law is a good or a bad one? how determine whether this or that Constitution is a good or a bad one? Washington in his address to his countrymen, at the close of his Presidential career, endeavored to impress upon their minds the intimate connection which exists between duty and advantage. It is an idea which I have thought we lose sight of frequently in attempting to establish constitutional provisions or legal enactments. The intimate and inseparable connection, the indissoluble tie that binds duty and advantage together, also connects evil with the violation of duty, and we cannot, with impunity, violate the laws of the Creator, which are as eternal as his nature, without in some manner suffering the penalty of their violation. We know perfectly well that if we violate a physical law, we suffer the penalty of physical injury; if we violate a mental law of our being, our mental faculties suffer the penalty; if we violate a moral law, our moral being suffers. These laws are fixed and immutable, and Chancellor Kent says "the same moral prin- "ciple that governs individuals governs States "and nations, and they are to be governed by "the same standard of right, nothing more "nor less." Then I say, that when we come to the question of law making, there is a standard of right which we cannot with impunity disregard, and as I before stated, there is no principle on which we can base our rights, that does not give the same right to our neighbor.

It is a fact which some of us may have overlooked, that in the bills of rights which existed before the revolution, emanating from Englishmen, whether in England or in the colonies, they confined themselves to the specification of rights properly belonging to Englishmen. But when the philosophers of the revolution were called upon to base themselves upon principles which would justify their action, they made a platform, as broad as the whole human family. They did not confine themselves to Englishmen, to Frenchmen, to Germans, or to Amer-

icans, but they took the position that "all "men are created equal, and are endowed by "their Creator with certain inalienable rights." Now upon this principle, I say we should harmonize our laws and Constitution. This is the platform upon which we stand, and if we depart from it, there is no principle we can depend upon for a moment, by which to vindicate our own rights should any attempt to take them from us by the hand of power, as we, by inserting the word "white," in this Constitution, would take from a large portion of our fellow citizens the rights we claim for ourselves.

No person will undertake to claim that the mere temporary condition of men, is a safe criterion by which to judge of their rights. Our ancestors, if we trace them back to England, will exhibit a most miserable condition, in their early history. A large portion of the ancient Britons were held in servitude and vassalage, and were far more degraded than a large share of the colored population of our country to-day. A degradation which would stamp them in the minds of the present generation as altogether unfit to be associated with the people of the present day. I say then that the temporary condition of a people is an uncertain and unsafe standard by which to judge of what is right. We are taught in scripture that God created all men of one blood, and the Golden rule has taught us that we should do unto others as we would that others should do unto us.

And it is no more plainly taught in scripture, than it is by our own standard law in this country—the platform which our fathers laid down for us, that all men are created equal. That noble sentiment in the Declaration of Independence, was at a subsequent time embodied in the Constitutions of all the thirteen original States, and that fact shows that they regarded this principle as something more than a mere rhetorical flourish—something more than a general expression of an abstract truth,—as a practical truth which was not only to be made practical in the freedom of the individual, but practical by allowing him to have that voice in the government of the country, which protects him in that right and in the enjoyment of his freedom.

Experience too, teaches this lesson as plainly as it is taught in scripture, and in our standard law. Turn our eyes upon any country upon the face of the earth, which violates this principle, and we find that it is suffering from that violation. Do we look at the despotisms of the East? We find that they are suffering to-day, as they have suffered for centuries, from a violation of every principle of natural right and justice. Look at our own country even, and compare those States of the Union, where men have been deprived of all their rights, with those States where men have been guaranteed all their rights. Draw a contrast between the New England States, and the States of the South where men are robbed of their rights to the greatest extreme, and how does that contrast appear? The one, in all the characteristics of good society have risen to eminence and have become the admiration of the civilized world, while the others are despised and scorned by the nations of the earth, and even by their own citizens. It seems to me that this lesson is taught so plainly everywhere that it should not escape our observation, when we come to construct political institutions.

I am also opposed to the insertion of the word "white" for the reason that it is inconsistent with the genius of our institutions. And here I shall have to refer to the Declaration of Independence, which some gentlemen seem to think does not mean anything as connected with the right of suffrage. It asserts the broad principle of equality of rights—of the black man's rights as truly and as clearly as the white man's rights. If it is claimed by white men that the Declaration means them alone, judging from the language of that instrument, it could be claimed with equal fairness by black men that it meant them alone, for the language of the instrument is as broad to cover the one as the other.

I am not one of those who believe that an instrument is to be interpreted in any other way than by the plain common sense meaning of its language. The people of that time, I believe, knew enough to enunciate principles in plain language, capable of being understood hy their countrymen then and now.

In the Constitution of the United States, which was adopted soon after the the Declaration of Independence, we see the same principle carried out. There is not a word or syl-

able in that instrument discriminating between different classes of men on account of their complexion. That was carefully kept out. There is not a word to intimate different conditions of men. The words "slave," "slavery," "servitude," and the word "white" are all excluded from that noble instrument, issuing from that noble body of men whom the North will ever have occasion to honor and revere for the stand they took at that time in laying the foundation of our political institutions.

It is remarkable not only that the Constitution of the United States carefully avoided making any distinction on account of color, but the Constitution of every one of the original thirteen States were clear of any such distinction, even including the State of South Carolina. In 1776, even she had a Constitution which had not the word "white," but in 1778, they inserted that word. In my hand I hold a book of Constitutions, published in 1797. In the bills of rights and the elective franchise clauses of these Constitutions, I find embodied the principles of the men of those times, and they show that they regarded that Declaration of Independence as something more than a mere abstraction, and that they deemed it right to give to colored men, with white men, the right to vote as well as the right to be free, and that they regarded the one as inseparable from the other.

In the Constitution of New Hampshire, I find the following language:

"All men are born equally free and independent; therefore all government of right originates from the people, is founded in consent and instituted for the general good.

"All men have certain natural, essential and inherent rights, among which are the enjoying and defending life and liberty, acquiring, possessing and protecting property, and in a word of seeking and obtaining happiness."

And in the elective franchise clause I find the following:

"Every male inhabitant of each town, and parish with town privileges, and places unincorporated in this State, of twenty-one years of age and upwards, excepting paupers and persons excluded from paying taxes at their own request, shall have a right at the annual or other meetings of the inhabitants of said town and parishes, to be duly named and holden annually forever in the month of March, to vote in the town or parish wherein he dwells, for a Senator in the district whereof he is a member."

And the same qualifications are further extended to election of all officers.

I find in the Constitution of Massachusetts, a bill of rights more complete than that of any other State—a bill of rights drafted by John Adams, who, perhaps, bore as important a part in the revolution as any other man in the Union. It commences,

"All men are born free and equal, and have certain natural, essential and unalienable rights; among which may be recorded the right of enjoying and defending their lives and liberties; that of acquiring, possessing and defending property; in fine, that of seeking and obtaining their safety and happiness."

In the Elective Franchise clause the principle is carried out strictly. They did not put the word "white" in the Elective Franchise clause and leave it out of the Bill of Rights, as it is proposed to do here. I read from that clause:

"At such meeting every male inhabitant, having a freehold estate within the commonwealth, of the annual income of three pounds, or any estate of the value of fifty pounds, shall have a right to give in his vote for the Senators of the district of which he is an inhabitant. And to remove all doubt concerning the word 'inhabitant,' in this Constitution, every person shall be considered as an inhabitant (for the purpose of electing and being elected into any office or place within the State,) in that town, district or plantation where he dwelleth or hath his home."

A number of States at that time had a clause requiring the possession of some property in order to qualify a man for voting, but no clause making any distinction on account of color.

In the Constitution of New York, adopted in 1777, the following provision is found in the elective franchise clause:

"That every male inhabitant of full age who shall have personally resided in one of the counties of this State for six months immediately preceding the day of election, shall, at such election, be entitled to vote for representatives of the said county in assembly; if, during the time aforesaid, he shall have been a freeholder, possessing a freehold of the value of twenty pounds within the said county, or have rented a tenement therein of the yearly value of forty shillings, and have rated and actually paid taxes to this State."

"*Every male inhabitant*"—language as broad as it could be. I find the same in Pennsylvania; and when I come to the little State of Delaware, I find a noble sentiment,

more fully expressed than in any other Constitution I have seen, viz:

"That the right in the people to participate in the Legislature is the foundation of liberty and of all free governments; and for this end all elections ought to be *free* and *frequent;* and every free man, having sufficient evidence of a permanent common interest with and attachment to the community, hath a right of suffrage."

I should rejoice if there were virtue enough in the Territory of Minnesota to incorporate such a provision as that into our Constitution. The sentiment is a noble and a true one, saying what every man knows and recognizes to be true, so far as it relates to himself—and it is true alike of others—that the right in the people to participate in the Legislature, to have a voice in making the laws by which they are governed, is the foundation of liberty and of all free governments, and that for that end all elections ought to be "*free and frequent.*"

I find the same general provision in Virginia, Maryland, North Carolina, South Carolina and Georgia, but I will not take up the time of the Convention by reading them. All the Constitutions in this volume are free from any distinction on account of color, except that of South Carolina. And even their first Constitution was right in this particular.

The fact is one which ought to be borne in mind by every American citizen, that our fathers of revolutionary memory had the virtue to stand up frankly and boldly like men, and to carry out their principles. They did not care for the peculiar circumstances in which they were placed. They discovered a grand and noble truth as a platform upon which they could base themselves, and when charged with inconsistency, they had, like Patrick Henry, the nobleness to say that they would "so far pay their devoir to virtue as to "own the excellence and rectitude of her pre-"cepts, and to lament their own want of con-"formity to them."

To prove this still further, I ask the attention of the Convention to a passage from Patrick Henry to which I have just alluded. He says:

"Is it not surprising that at a time when the rights of humanity are defined with precision in a country above all others fond of liberty—that in such an age and in such a country we find men, professing a religion the most humane and gentle, adopting a principle as repugnant to humanity as it is inconsistent with the Bible and destructive to liberty? Believe me, I honor the Quakers for their noble efforts to abolish slavery. Every thinking, honest man rejects it in speculation; yet how few in practice from conscientious motives. Would any man believe that I am master of *slaves* of my own purchase? I am drawn along by the general inconvenience of living without them. I will not, I cannot justify it. For however culpable my conduct, I will so far pay my devoir to virtue as to own the excellence and rectitude of her precepts, and to lament my own conformity to them."

That was noble in a man, if he had not the courage to come up to his own standard of right, he had not the meanness to try to excuse himself by saying that it was right for him to do otherwise. And Franklin, who was a member of the Convention that issued the Declaration of Independence, and also a member of the Convention that framed the Constitution, subsequently presented a petition to Congress in which his views upon the subject of slavery and also of human equality—which is applicable to this very question before us—was set forth more fully and in a briefer form than I have been able to find elsewhere. I will read a part of that memorial which was presented to Congress, signed by him in his official capacity as President of the Pennsylvania Abolition Society:

"That mankind are all formed by the same Almighty Being, alike objects of his care and equally designed for the enjoyment of happiness, the Christian religion teaches us to believe; and the political creed of Americans fully coincides with the position. Your memorialists, particularly engaged in attending to the distresses arising from slavery believe it to be their *indispensable duty* to present this subject to your notice. They have observed with real satisfaction that many important and salutary powers are vested in you; for promoting the welfare and securing the blessings of liberty to the people of the United States, and as they conceive that these blessings ought rightfully to be administered, *without distinction of color*, to all description of people, so they indulge themselves in the pleasing expectation that nothing which can be done for the relief of the unhappy objects of their care will be either omitted or delayed.

"From a persuasion that *equal liberty* was originally the position and is still the birthright of all men;"

'*Equal liberty, the birthright of all men!*' —there are some at the present day who would have that liberty unequal, which Franklin here says is the birthright of *all men.*

"And influenced by the strong ties of humanity and the principles of their institution your memorialists conceive themselves bound to use all justifiable endeavors to loosen the bonds of slavery, and promote a general enjoyment of the blessing of freedom. Under these impressions they earnestly entreat your serious attention to the subject of slavery; that you will be pleased to countenance the restoration of liberty to those unhappy men, who alone, in this land of freedom, are degraded into perpetual bondage, and who, amidst the general joy of surrounding freedom are groaning in servile subjection; that you will promote justice and mercy towards this distressed race, and that you will step to the very verge of the powers vested in you for discouraging every species of traffic in the persons of your fellow men."

So general was the feeling at that time on the subject of the wrongs done to that class of human beings held in bondage, that Jefferson used his utmost exertions to influence gentlemen in England to come over to America to labor for the removal of that black stain upon the body politic. He wrote a very distinguished gentleman of London, Dr. Price, upon the subject, and I will only read one sentence to show what Jefferson thought of the general views of the people on that subject. In his letter to Dr. Price he says:—

"Northward of the Chesapeake, you may find here and there an opponent to your doctrine, as you may find, here and there, a robber and a murderer, but in no great number."

Speaking upon the subject of legislation he says:—

"And with what execration should the statesman be loaded, who, permitting one half of the citizens, thus to trample on the rights of the other."

—It seems that Jefferson regarded even the slaves as citizens.—

"Thus to trample on the rights of the other, transforms those into despots and these into enemies—destroys the morals of the one part and the *amor patriae* of the other. For if a slave can have a country in this world, it must be any other in preference to that in which he is born to live and labor for another, &c."

There is an idea which it would be well for every citizen to reflect upon, that just as far as we do wrong to any class of our citizens we compel them to be enemies instead of friends. They may not be driven to be enemies completely, but such a course is not calculated to produce attachment to institutions which are designed to crush them.

I am also opposed to the insertion of the word "white" for the reason that the colored men of the United States have done their full share towards securing our liberties. They have helped to fight our battles and win our victories. As evidence upon this point, I will read a few extracts from an authentic work upon this subject, in which is enumerated some particular instances in which colored patriots of the revolution sacrified their lives in fighting those battles by which we gained those blessings which we now enjoy. It is a fact which we ought to remember, that the first man that fell in the battle of the revolution in Boston was a colored man. Botta, in his history, speaking of the scenes of the fifth of March says:

"The people were greatly exasperated. The multitute ran towards King street, crying '*Let us drive out these ribalds; they have no business here.*'

"The rioters rushed furiously towards the Custom House; they approached the sentinel, crying '*kill him, kill him!*' They assaulted him with snow balls, pieces of ice, and whatever they could lay their hands upon. The guard were then called, and in marching to the Custom House, they encountered a band of populace, led by a mulatto named Attucks, who brandished their clubs, and pelted them with snow balls. The maledictions, the imprecations, the execrations of the multitude, were horrible. In the midst of a torrent of invective from every quarter, the military were challenged to fire. The populace advanced to the points of their bayonets. The soldiers appeared like statues; the cries, the howlings, the menaces, the violent din of bells still sounding the alarm, increased the confusion and the horror of these moments; at length the mulatto and twelve of his companions, pressing forward, environed the soldiers, and striking their muskets with their clubs, cried to the multitude 'he not afraid, they dare not fire; why do you hesitate, why do you not kill them, why not crush them at once?' The mulatto lifted his arm against Capt. Prescott, and having turned one of the muskets, he seized the bayonet with his left hand, as if he intended to execute his threat. At this moment confused cries were heard, '*the wretches dare not fire.*' Firing succeeds. Attucks is slain. The other discharges follow. Three were killed, five severely wounded, and others slightly."

John Adams, counsel for the soldiers admitted that Attucks appeared to have undertaken to be the hero of the night, and to lead the people.

At Bunker Hill, the man who shot Major Pitcairn was a colored man. Sweet, in his sketches of the Bunker Hill battle says:

"Major Pitcairn caused the first effusion of

blood at Lexington. In that battle his horse was shot under him, while he was separated from his troops. With presence of mind, he feigned himself slain; his pistols were taken from his holsters and he was left for dead, when he seized the opportunity and escaped. He appeared at Bunker Hill, and sayest the historian, among those who mounted the works was the gallant Major Pitcairn, who exultantly cried out "*the day is ours,*" when a black soldier named Salem shot him through and he fell. His agonized son received him in his arms, and tenderly bore him to the boats. A contribution was made in the army for the colored soldier, and he was presented to Washington as having performed this feat."

In order to confirm this statement, I will read an extract from the address of the Hon. EDWARD EVERETT, on the occasion of the erection of the Warren monument to commemorate the heroes of that battle. Mr. EVERETT says:

"It is the monument of the day of the event of the battle of Bunker Hill; of all the brave men who shared its perils—alike of Prescott, and Putnam, and Warren—the chiefs of the day, and the colored man Salem, who is reported to have shot the gallant Pitcairn as he mounted the parapet. Cold as the clods on which it rests; still as the silent Heaven to which it soars, it is yet vocal, eloquent, in their undivided praise: Till the ponderous and well compacted blocks of granite which no force but that of an earthquake will heave from their bearings, shall fall asunder, it will stand to the most distant posterity, a grand, impartial illustration (nature's own massive lithography) of the noble page, second to no other in the annals of America, on which history shall write down the names and the deeds of the seventeenth of June, 1775."

That monument commemorates the deeds of colored men as well as white men, and it is refreshing in these days of forgetfulness of such services to find now and then a gem like that from such a man as EVERETT, recalling to mind the fact that we are indebted somewhat to colored men for the liberties we enjoy.

During the revolution it was determined by the Legislature of Rhode Island, to raise a colored regiment, and here is the whole bill, covering two pages, providing for their enlistment as soldiers.

Massachusetts did the same thing, and General WILSON, in the Massachusetts Constitutional Convention, alludes to it in the following language.

"The first victim of the Boston massacre, on the fifth of March, 1770, which made the fires of resistance burn more intensely, was a colored man. Hundreds of colored men entered the ranks and fought bravely on all the fields of the revolution. Graydon, of Pennsylvania, in his memoirs, informs us that many of the southern officers disliked the New England regiments because so many colored men were in their ranks. When the country has required their blood in the days of trial and conflict, they have given it freely and we have accepted it; but in times of peace, when their blood is not needed, we shun and trample them under foot. I have no part in this great wrong to a race. Wherever, and whenever we have the power to do it, I would give to all men, of every clime and race, of every faith and creed, freedom and equality before the law. My voice and my vote shall ever be given for the equality of all the children of men, before the laws of the commonwealth of Massachusetts and the United States."

That sentiment I fully endorse. During the revolutionary war, after a protracted contest had rendered it difficult to procure recruits for the army, the colony of Connecticut adopted the expedient of forming a corps of colored soldiers:

"A battallion of the blacks was soon enlisted, and throughout the war conducted themselves with fidelity and efficiency. The late General Humphreys, then a captain, commanded a company of this corps. It is said that some objections were made on the part of officers to accepting the command of colored troops. In this exigency, Captain Humphreys, who was attached to the family of Gen. Washington, volunteered his services. His patriotism was rewarded, and his fellow officers were afterwards as desirous to obtain appointments in that corps as they had previously been to avoid them."

During the same war the Legislature of New York passed an act granting freedom to all slaves who served in the army three years and were regularly discharged. Mr. MARTINDALE, of New York, said in Congress, on the twenty-second day of January, 1828:

"Slaves, or negroes who had been slaves, were enlisted as soldiers in the war of the revolution; I myself saw a battalion of them, as fine martial looking men as I ever saw, attached to the northern army, in the last war, on its march from Plattsburg to Sackett's Harbor."

Among other reminiscences connected with the revolution, the celebrated Mr. FORTEN, who had been himself a soldier in the revolution for a long time and a prisoner on the old Jersey prison ship, often alluded to the part taken by colored men in the war. Says he:

"Saw the regiments from Rhode Island, Connecticut and Massachusetts when they marched

through Philadelphia to meet Cornwallis, who was then overrunning the South, and said that one or two companies of colored men were attached to each. The vessels of war of that period were all to a greater or less extent, manned by colored seamen. On board the Royal Louis, on which Mr. Forten enlisted, there were twenty colored seamen; the Allianee, of thirty-six guns, Commodore Barry; the Trumbull, of thirty-two guns, Captain Nicholson, and the ships South, Carolina, Confederacy, and Randolph, were all manned in part, by colored men."

Captain SHALER, of the brig, Governor Tompkins, who had some remarkable adventures in the late war, speaks of two colored men of that crew in the following language:

"The name of one of my poor fellows who was killed ought to be registered in the books of fame, and remembered with reverence as long as bravery is considered a virtue. He was a black man by the name of John Johnson. A twenty-four pound shot struck him in the hip and took away all the lower part of his body. In this state the poor brave fellow lay on the deck, and several times exclaimed to his shipmates, *fire away my boys!—not haul a color down!*"

"The other was also a black man by the name of John Davis, and was struck in much the same way. He fell near me, and several times requested to be thrown overboard, saying, *he was only in the way of others.* While America has such tars, she has little to fear from the tyrants of Europe."

The celebrated Charles Pinckney, Esq., of South Carolina, in his speech on the Missouri question, and in defence of the slave representation of the South, made the following admissions:

"At the commencement of our revolutionary struggle with Great Britain, all the States had this class of people. The New England States had numbers of them; the Northern and Middle States had still more, although less than the Southern. They all entered into the great contest with similar views. Like brethren they contended for the benefit of the whole, leaving to each the right to pursue its happiness in its own way. Thus they nobly toiled and bled together, really like brethren. And it is a remarkable fact, that notwithstanding, in the course of the Revolution, the Southern States were continually overrun by the British, and every negro in them had an opportunity of running away, yet few did. They then were, as they still are, as valuable a part of our population to the Union, as any other equal number of inhabitants. They were, in numerous instances, the prisoners, and in all, the laborers of your armies. To their hands were owing the erection of the greatest part of the fortifications raised for the protection of our country. Fort Moultrie gave, at an early period of the inexperience and untried valor of our citizens, immortality to American arms. And in the Northern States numerous bodies of them were enrolled and fought side by side with the whites the battles of the Revolution."

After the famous battle of New Orleans, which gained so much renown to General Jackson, it is well known that we called upon the colored men to engage in that fight. In his call upon them, he used the following language in his proclamation from his headquarters at Mobile:

"Through a mistaken policy, you have heretofore been deprived of a participation in the glorious struggle for national rights in which *our* country is engaged. This no longer shall exist. As sons of *freedom* you are now called upon to defend our most inestimable blessings. *As Americans,* your country looks with confidence to her adopted citizens for a valorous support, as a faithful return for the advantages enjoyed under her mild and equitable government. As fathers, husbands and brothers, you are summoned to rally around the standard of the eagle to defend all which is dear in existence. * * * * To assure you of the sincerity of my intentions, and my anxiety to engage your invaluable services to our country, I have communicated my wishes to the Governor of Louisiana, who is fully informed as to the manner of enrollments, and will give you every necessary information on the subject of this address."

From another subsequent proclamation, I extract the following language:

"SOLDIERS!—When on the banks of the Mobile I called you to take up arms, inviting you to partake the perils and glory of *your white fellow citizens, I expected much of you*; for I was not ignorant that you possessed qualities most formidable to an invading enemy. I knew with what fortitude you could endure hunger and thirst, and all the fatigues of a campaign. *I knew well how you loved your native country,* and that you, as well as ourselves, had to defend what *man* holds most dear—his parents, wife, children and property. *You have done more than I expected.* In addition to the previous qualities I before knew you to possess, I found among you a noble enthusiasm which leads to the performance of great things. Soldiers, the President of the United States shall hear how praiseworthy was your conduct in the hour of danger, and the representatives of the American people will give you the praise your exploits entitle you to. Your General anticipates them in applauding your noble ardor."

General Jackson was willing to admit that this was their native country, but I notice that when gentlemen here try to deprive them of the right of suffrage, they say that they have no business here; that this is not their

country, and that they should go home where they belong. Such was not the language of General Jackson to the colored soldiers of the war of 1812.

Hon. Robert C. Winthrop, in his speech in Congress in 1850, on the imprisonment of colored seamen, bore this testimony to the gallant conduct of the colored soldiers in New Orleans:

"I have an impression that, not indeed in those piping times of peace, but in the time of war, when quite a boy, I have seen black soldiers enlisted who did faithful and excellent service.

"But however it may have been in the Northern States, I can tell the Senator what happened in the Southern States at this period. I believe I shall be borne out in saying that no regiments did better service at New Orleans, than did the black regiments, which were organized under the direction of General Jackson himself, after a most glorious appeal to the patriotism and honor of the people of color of that region, and which, after they came out of the war, received the thanks of General Jackson, in a proclamation which has been thought worth to be inscribed on the pages of history."

From the documents it appears that there were over four hundred "men of color" in that battle. But here it is proper to notice the fact that Great Britain had her colored soldiers in that battle; the United States had hers. Great Britain's became freemen and citizens; those of the United States continued only half free and half slaves.

What a disgrace to our country that England, which we call an oppressive government, can do justice to those who fight her battles, while our own country, claiming to be more free, more noble and wise than any other, continues such injustice, not only in the Southern States, but here in free States and Territories, where we all profess to believe that every man has an equal right in the government. What a disgrace that we will, from mere temporary expediency, rob men of what we all know is their just due. We ought to rise above this prejudice, and for once do that justice which has been so long delayed.

In view of all these circumstances a colored man makes the following appeal to his countrymen:

"We are *natives* of this country; we ask only to be treated as well as *foreigners*. Not a few of our fathers suffered and bled to purchase its independence; we only ask to be treated as well as those who fought against it. We have toiled to cultivate it, and to raise it to its present prosperous condition; we only ask to share equal privileges with those who come from distant lands to enjoy the fruits of our labor."

When such an appeal is made to us, can any man say that it is not a fair one? one which does not commend itself to the understanding and heart of every American citizen? When they have fought our battles, is it anything more than fair, that they should be treated as well as those who fought against us in that struggle? And yet for the sake of obtaining the favor of that very class of men who fought against us, and from a fear of incurring their opposition, gentlemen will consent to trample in the dust that very class of men who stood by us in the hour of need, and commend to our utmost favor that class which fought us to the death. We ought at least to have the virtue to do as much justice to our friends as we have done to our enemies.

If there is anything on earth that is perfectly despicable, it is one, who having been suddenly raised from a low degree, to affluence and honor, forgets or scorns the friends of former years, and who were friends in adversity. There is no one of us but would look with utter contempt upon a character of that kind. And shall we try to fasten upon this new State the character we would despise in an individual? Shall we turn coldly away from the demand of justice and humanity, and from appeals which come to us as strongly as appeals can come to the human mind and heart, and lay aside all considerations of justice and compassion, and sneakingly oppress those who were our friends in adversity but who have been denied simple justice for more than eighty years that we have existed as a nation? It seems to me that gentlemen should take these things into consideration before they insert the word "white" in this Constitution, and thus cut off the rights of those whose rights are equal in justice to our own.

Again, I am opposed to the insertion of the word "white" because it is inexpedient and bad policy to put it there. It is much easier to begin right and remain so, than it is to get right after having begun wrong. We all know how hard it is to correct abuses in government; how difficult to eradicate old evils, to remove the prejudices of men, and the great

reverence for precedents. We can look back here and see how much we are governed by precedents. If men here can find precedents in some old Constitutions, they rely upon them as that by which we should be governed in framing our own Constitution. Precedents have their influence upon the human mind, and I say we are now here making precedents. Coming generations will look back to this Constitution as a precedent, and the time is coming when they will say that the men who framed this Constitution did as well as they could under the circumstances, and give us quite as much credit as we deserve for sincerity, honesty and patriotism in framing this instrument. Do not let us claim a credit which is not due, and give them a precedent which will lead them astray. Do not let us consent to do what we know is wrong, because we think it is the policy of the hour. I am opposed, and shall ever be opposed to that kind of policy which sacrifices principle and requires us to countenance injustice for the sake of mere temporary success.

But I do not believe that success is to be gained by sacrificing principle. By taking that course we are going backward as a nation, while other nations are going forward.

Some gentlemen say, "You are right in "theory. In the abstract we will agree with "you, and all of us will be with you soon, "but you must not press things too fast." Is it going too fast after the lapse of eighty years to come up to the standard, our fathers marked out for us? Is it going too fast if we do not go beyond a point to which they went eighty years ago? While the Russian Government has set itself against the extension of serfdom, and the Sultan of Turkey, the Bey of Algiers and of Tunis, and even the King of Morocco have set their faces against slavery and are making progress in favor of the right and of human liberty, what do we see in our own country? Republican America, claiming to be the wisest, the most exalted, and the noblest nation on the face of the earth, is retrograding from the high standard set up by the fathers, and is fighting to-day for the extension of human bondage. While the monarchies of Europe are liberalizing their governments and increasing the guarantees to human liberty, shall we go backward and endeavor to put on the cast-off barbarism of Eastern despots, and trample in the dust our own citizens? Here in this Northern Territory, peopled by New England men who were brought up where every man enjoyed his freedom, and educated under institutions which gave to every man equal rights in the government? Even here in this Convention, we are told that we must not come up to the standard which our fathers established more than eighty years ago. We should not go backward; we should not retrograde, but should, at least, have the virtue to come up to the mark our fathers set us, if we cannot go beyond it. But in this day of light, knowledge and virtue, it is a disgrace to the son to hold that he cannot go beyond his father. It is a disgrace to any man not to be able to improve upon the wisdom of the past. We, as American citizens, successors of revolutionary patriots should not be content merely to come up to their mark. It is a matter of surprise that those noble men accomplished so much for humanity in the short time in which they labored. But they left a work for us to accomplish, and we ought not to prove recreant to the trust or despise the example they set us. To institute a mere temporary policy, which rejects all principle, is itself a wrong for which future generations must suffer, and for which they will condemn us.

But how does it appear to the eyes of nations, that while the governments and despotisms of the old world are casting off their relics of barbarism we are endeavoring to put them on? In what light shall we be viewed by coming generations if this is our position and the stand we are to take?

But there is another thing which we ought not to overlook, and that is the degrading influence which this course will exert upon our own citizens? Our foreign population, ignorant and degraded, when they come here—(I speak of those who are most oppressed in their own countries,)—stand at the polls, side by side with the opulent of the land, and they rise in dignity, manhood and respectability, because they have a ballot to deposit, and a voice in the government; and that ballot shields them from wrong. Men will not trample on them when they remember that they are American citizens, possessing the right to deposit a ballot in favor of men who will rule

over them, with justice. It is an ennobling and elevating influence, and I rejoice that it is so. But I object to those who bestow upon our foreign citizens that right, turning round and attempting to dispossess of those same rights, men who are native born citizens, and whose ancestors fought the battles which won our liberties.

The degrading influence it has upon society is enough to make any man pause before he votes to consummate this great wrong. I like the sentiments of Goldsmith in his deserted village, when he says:

"Ill fares the land to fostering ills a prey,
Where wealth accumulates and men decay;
Princes and Lords, may flourish or may fade—
A breath can make them as a breath has made,
But a bold peasantry, their country's pride,
When once destroyed can *never* be supplied."

Trample men to the earth, grind them down, make them lose their self-respect, their hopes and their aspirations, and you create a class in community that clogs the body politic. Treat them like men, and they become men, defenders of the country, and a class that materially assist in building up every useful institution. Neither States nor communities can sin with impunity in this respect, and, as I said before, every nation upon the face of the earth, show in its present condition how far it has sinned in that particular.

It is inexpedient, too, in another respect. As members of the Convention we have claimed to be ahead, somewhat at least, those who are opposed to us in political sentiments. I know of no principle but this that defines the two parties and places them in a different position from us, so far as Territorial and State policy is concerned. Shall we for the sake of the present moment, lose sight of the immense advantage we gain from the purity and exaltation of our principles? Shall we lower ourselves down to the level of our opponents for the purpose of taking the wind from their sails for the moment? If we gain by it to-day we lose by it to-morrow. It is the worst policy we can pursue. If we look at the past experience of political parties we are compelled to come to that conclusion. The Whig party of the past degenerated by adopting this very policy. It was continually choosing the least of two evils. It died as a party, and nothing in the world brought it to that death but the want of a living and vital principle, which should have governed them instead of expediency.

The other party is to-day treading in their footsteps. They are casting aside the principles of Jefferson and the fathers. They are ignoring the idea that there is any higher law than their own corrupt machinations. And what is their condition to-day? They are sinking as fast as a political party ever sank. The country is spewing them out of its mouth in consequence of their rejection of principle. Let us be warned by their example, and not do wrong in the hope of a temporary success.

But I am further opposed to the insertion of the word "white," because it makes us simply ridiculous. How are we to determine legally and constitutionally who are voters, under such a restriction? What is to be the standard of color? There are as many shades of complexion as there are differences in the contour of countenances. There are as many shades of color of the hair, of the eyes, of the skin, as there are individuals in the world. If we are to have that word inserted, we should have some standard by which to show just about how much whiteness we should have, or how much blackness we could bear, so that we may unerringly know, when a man comes to the polls, whether he can be legally and constitutionally rejected or not. Shall we submit that to the judges of the election? I ask if there is any man in the Union who would not laugh at their perplexity? Let them undertake to do it legally and candidly, and their perplexity would make them a laughing-stock. We make ourselves ridiculous when we insert that word in our Constitution. One judge, of strong prejudices, sees a man come up to the polls to vote who is as white as any man in this Convention, but he finds out he has negro blood in his veins, and he rejects him. Another judge, of less prejudice, sees a man come to the polls who is three-quarters African, but has a tolerably white complexion, and he passes his vote. And so the rule will vibrate from one extreme to another, according to the prejudices of men. The right of a man in this Government to vote, ought not to be dependent upon caprice and whim. It ought to be placed upon some more specific, firm and reliable basis.

I am opposed to it also because it would cut off, if it is adopted and consistently carried out—as it should be if at all—some of the honorable gentlemen in the other end of the Capitol. Now I would protect those men in their rights, and while I would protect them I would not cut off the rights of other men in this city who are quite as intelligent, quite as refined and as much men in all the qualities which make the man.

Another thing. It does not become men to admit the rights of the Indians and half-breeds of this Territory, and at the same time despise the mixed blood of the other race. I hold that the blood of the first families of Virginia, running in the veins of mulattoes is as elevating and whitening in its influence as the blood of the Indian traders, whisky sellers and gamblers running in the veins of the half-breed Sioux and Winnebagoes, and quite as much to be respected. I am not particularly partial to the blood of the first families of Virginia, but I am convinced nevertheless, that their blood running in the veins of the slaves is as much to be respected as that of the whisky seller, Indian trader and gamblers in the veins of half-breeds of this Territory. And I regret to see gentlemen upon this floor discriminate and advocate the right of the half-breed Indians to vote, and deny that right to half-breed negroes. The one is quite as honorable as the other.

With these remarks I submit the question hoping that we shall act upon this subject with candor and fairness, and not to be carried away with ideas of policy, which govern only for to-day, in making a Constitution for years. I hope we shall make such a Constitution as we shall not look back upon with shame and self-reproach in coming time.

The question being on the amendment to strike out the word "white"—

Mr. GALBRAITH moved a call of the Convention.

A call was ordered, and the roll being called, the following members failed to answer to their names:

Messrs. Anderson, Ayer, Billings, Bolles, Coe, Coombs, Hall, Hudson, Murphy, Peckham, Robbins, Thompson, Winell, and Watson.

Pending the call—

Mr. COLBURN stated that Mr. BILLINGS was confined to his room by sickness, and that Mr. BOLLES had been compelled to return home on account of sickness in his family.

Mr. HARDING moved that all further proceedings under the call be dispensed with.

The motion was not agreed to.

Mr. ALDRICH stated that Mr. AYER was absent from the city.

The Sergeant-at-Arms was directed to report the absentees in their seats.

After an interval of half an hour—

Mr. WILSON moved to reconsider the vote by which the Convention refused to suspend further proceedings under the call.

Mr. FOSTER. Did the gentleman vote with the majority.

Mr. WILSON. I believe I did, but I do not exactly recollect.

Mr. ALDRICH. I voted with the majority, and I move to reconsider.

Mr. KING. I voted with the majority, and I second it.

The motion to reconsider prevailed, and then all further proceedings under the call were dispensed with.

Mr. WILSON. As a member of the committee which reported this article, I deem it proper that the Convention should understand just how this matter stands. It is agreed and understood by the majority of the committee, that if the word "white" is left in the Constitution, there shall be a separate article drawn up and inserted in the schedule, or made a distinct proposition—for this is not the proper place for it—submitting this question to a direct vote of the people, at the same election at which the people vote on this Constitution. I, myself, am in favor of leaving the word "white" in the Constitution, and, so far as I know, all the members of the committee, with the exception of the gentleman from Rice county, (Mr. NORTH,) are in favor of the same thing. If the word "white" is taken out, still the section will read correctly without any further alterations to correspond. The section was drawn with special reference to that possible action of the Convention. With the understanding I have mentioned, I shall vote against striking out the word "white."

We are framing a Constitution for the whole State. We are not framing a Republican or a Democratic Constitution. And if we were framing a Constitution for the Republicans, I am not aware that it is any part

of the Republican creed to admit negroes to an equal right of suffrage; nor do I wish to inaugurate any such system until I know the wishes of the people in that respect. They have not expressed themselves upon the subject. I am in favor of submitting the question to them, and if they say, strike out the word "white," I bow respectfully to their judgment; and if they say retain it, I say "amen" to that. I do think it would be wrong, on a question like this, where no party has taken a stand upon it, to depart from the ordinary course. The people's attention has not been called to the subject. The practice hitherto in this Territory, has been to allow no negro to vote, nor any person tainted with negro blood. I think the fair way is to leave this matter as it stands. The people have not demanded a change from us. Leave it as it is, and submit a fair proposition to the people, whether or not they wish a change. What more should any one ask?

I thought explanation thus far necessary as to the intention of the committee.

Mr. NORTH. If it should be stricken out, the question could just as easily be submitted to the people, to have them determine whether they would have it inserted. I think that would make the Constitution in harmony with the views of a large majority of this Convention—a body which is almost entirely, upon principle, in favor of leaving it out, but upon policy, of keeping it in. Do not let us insert a word into the Constitution, and then go before the people and say, "We want you to "strike it out for us. We have acted against "our own convictions of right, and we want "you to help us out of the difficulty."

And here allow me to say, that a large number of the best Republicans of the Territory, feel upon this matter very deeply, and many of them say they cannot support a Constitution which thus violates their principles. Men have this matter at heart. They insist that the word shall be left out, and that we shall give the people the right to say whether it shall be inserted or not. Then they will be with us; otherwise they cannot be.

Mr. WILSON. I protest against any gentleman saying that a large majority of this Convention are acting upon this subject contrary to their conscientious convictions and feelings, out of motives of policy.

Mr. NORTH. A vote of this body was taken—to be sure not in the Convention—and there were not to exceed six of this entire Convention but would vote, when it came in question at the polls, in favor of striking out this word "white."

Mr. KEMP. Was that recorded on the record?

Mr. WILSON. Not at all; and I do not know of any such action of this Convention.

Mr. NORTH. Not in Convention. I express the sentiments made by the members of this body, in caucus.

Mr. WILSON. If that be an argument for members of this Convention, it is a species of argument, of the propriety and strength of which I know nothing. If it be advanced for the purpose of driving in anybody to vote for the gentleman's motion, I would like to know it. I suspected such a thing at the time, and some gentleman declared that the vote was taken at that caucus for such a purpose. I protested against any such vote. Many gentlemen voted to satisfy that gentleman; and now it is brought up here—a vote which the Convention knows nothing of. I protest against it.

Another idea; the course we are taking to leave the word in, and leaving the people to strike it out, is according to custom, and I think it is wise, before we change that custom, to ask the people whether they want a change, rather than first say that we will change this thing for them, and if they do not like it, let them change it back. Ours is the correct and philosophic mode.

Mr. McCLURE. Mr. PRESIDENT. I hope our friends will not become excited on the subject, but keep cool. I am unable to see how a great principle is to be sacrificed either by allowing this word to remain, or by striking it out since the people have to vote upon the matter. As far as I am concerned, I shall vote here for leaving it in, and I don't know that it's any gentleman's business how I shall vote on it at the polls. We are now forming a Constitution, and I believe it is agreed on all sides, that this matter shall be left for the people to decide at the time of the adoption of the Constitution; and for the life of me, I cannot see the importance of this question here.

Gentlemen on both sides, talk about the

sacrifice of principle: but I cannot understand how I would sacrifice my principles by voting either way; for the simple reason, that the proposition is to go to the people. But if, after the submission of the question to the people, I should vote against my sense of right, as a matter of policy I should sacrifice a principle. As far as the Republican party is concerned, this question never was a plank in our Platform—never was thought of—never was attempted to be put in. I presume every member knows that. Republicans may be in favor of striking this word out, and nobody blames them; and then again, a great many may be opposed to striking it out, and nobody accuses them of dissenting from the party for such views. Therefore I can see no occasion, certainly, for getting excited on this question. So far as I am concerned, I keep cool, and when I come to the polls to vote I shall vote as I please. The whole controversy is, shall we leave the word out, and let the people put it in? or, shall we leave it in, and let the people strike it out? It is merely a matter to go to the people; and I say again, for the life of me, I cannot see any great difference whether it be in or out.

Mr. BALCOMBE. [Mr. STANNARD being in the Chair.] The gentleman from Goodhue (Mr. MCCLURE) has made much the same remark I intended to make, which of course leaves no necessity for repeating it; and I should not rise now, if it had not been alleged that we have had an expresion in favor of this amendment. There was, at one time here, a consultation to get at an expression of the feeling of our friends upon this particular subject. It was also then thrown out, that there might be an ulterior object in view, in attempting at that time, to get an expression on the subject. I denied it at the time, and I deny it now. There was no expression given; at least, it was no part of my intention. I had no such idea; and I wish to divest myself entirely of blame in the matter. The gentleman who has alluded to the matter has done so upon his own responsibility.

While I am up, I will notice one remark which the gentleman made in his speech. He stated, that the only distinctive difference between the two parties, in this Territory, was on this question of negro suffrage. Now, sir, I deny that that is the difference. I deny that the Republican party, as a party, have adopted equality of suffrage as a plank in the platform of the party. I deny it, knowing what I say, sir, it has been my policy, and I believe it has been the policy of a majority of the members of this Convention, to keep the distinction clear between the two parties; but this suffrage issue is no part of it. What is it? Opposition to the further extension of slavery.

Mr. NORTH (Interrupting). I desire to correct the gentleman. I stated distinctly, that was the difference, as far as the politics of the State were concerned. No further.

Mr. BALCOMBE. Very well; I take the gentleman upon that ground, and I say here, that it is not the wish of a majority of this Convention this day, to take that issue. It is not the wish of the Republican party to join issue upon that question. It is the wish of the majority of the Republican party to ignore that issue in our State politics. I believe it to be the desire of the majority of the Republican party to ignore the Temperance issue, and all other side issues. I believe that is the principle upon which the party was formed. For instance: I am in favor of a protective tariff. I agree to lay that aside, and agree with my friend here from Steele county, (Mr. COGGSWELL) who is an anti-protection man; and he agrees to lay that aside and all other issues, that we may stand together and fight to the best of our ability against the further extension of slavery and the slave power. We do not fight for the abolition of slavery; we do not fight for negro suffrage; nor for the abolition of slavery in any particular locality; nor against the fugitive slave law; but the party was formed for an express purpose—for one purpose only. Now, I suppose, for instance, there are a majority of protective tariff men in this Convention; and suppose further, that should I insist upon a protective tariff, and require that to be placed in the platform; would not that be doing injustice to my Democratic friend, who come into the party with me under the impression that we had laid that aside in our Union? Again, on the subject of Temperance. I am a temperance man. I have belonged to all the temperance societies that have existed, since I was twenty-one years of age; and I never drank a glass of

liquor at a bar, except as a medicinal prescription; but I never will agree that a temperance plank shall be in the Republican platform; and I say it would be a violation of our party organization. So, when another portion of the party alleges that negro suffrage is a plank in the platform, I shall deny it, and say it is not the principle upon which I united with my friend from Steele county in sustaining. We united upon the understanding, that all other issues should be laid aside except that one; and that we would work together, shoulder to shoulder, against the further aggressions of the slave power, and confine ourselves to that issue, and to that alone.

Now, as to the question: Like my friend from Goodhue, (Mr. MCCLURE) I cannot see for the life of me, why gentlemen cannot just leave it to the people. Is it because they are afraid of the people—because they distrust the people on this question? If they do, then they insert a provision which they know is against the wishes of the people, and which will have a tendency to endanger the acceptance of our Constitution by the people. Now I submit it to the candid consideration of the members of this Convention who are in favor of equal suffrage without reference to color, whether it is not wrong under such a state of things to strike out this word "white." You admit that it is not a plank in the platform of the Republican party, yet you ask us to adopt your peculiar views to the serious embarrassment of our party in the coming canvass.

I regret exceedingly that this question has assumed its present aspect. I had believed that it was substantially settled elsewhere in accordance with the report of the committee on suffrage. As I said before, I regret very much that this matter has been precipitated upon us here, for I believe it can result in no good, but much harm.

Mr. COLBURN. I desire to say in regard to this question simply that I did not propose to make any remarks upon this question. I was pleased at the course the discussion took until very recently, from the fact that it seemed to be carried on amicably, and no accusations were made against those who differed in opinion. The gentleman from Scott county, (Mr. GALBRAITH) and the gentleman from Rice county, Mr. (NORTH) carried on the discussion in a very fair manner, and calculated to call out the particular opinions of individuals. I intended to record my vote without any remarks. But when gentlemen tell me that if I vote to strike out the word "white," I vote for what I know will defeat the Constitution, it demands from me an emphatic denial.

Mr. BALCOMBE. Allow me to correct the gentleman. I stated that if the gentleman had confidence in the people, why not submit the question to the people; and if they had not confidence, and did not believe the people would strike out the word "white," why insist upon our striking it out, and thereby leave it so that negroes will have the right to vote, when they own that a majority of the people will not favor a Constitution with that provision in it.

Mr. COLBURN. I understand the gentleman further to say that we were voting to strike it out when we knew it must defeat the Constitution. Does the gentleman disclaim that sentiment?

Mr. BALCOMBE. I did not say so. I said it was wrong for them to strike out the word if they did know that fact, and that if they felt that a majority of the people were not in favor of negro suffrage, it was wrong to insist that we should strike out the word. If they have confidence in the people why not leave them to strike it out.

Mr. COLBURN. I accept the disclaimer willingly, and am glad to be corrected. But in reply to the question the gentleman propounds, I would say that if a majority of this Convention are satisfied that a majority of the people are opposed to having the word "white" in the Constitution, they would be recreant to their duty if they do not strike it out. If we are satisfied that the people do not desire it, how can we go before them and say "we "knew you were opposed to the word remain-"ing, but we put it in there, and leave you to "correct our wrong?" Would that be doing our duty? I do not pretend to know, and I distinctly state that I do not know whether a majority of the people are in favor of the word "white" being in the Constitution or not. But I do know that I am myself opposed to inserting the word because I believe it is wrong to do so. The grounds of that wrong have been fully set forth by the gen-

tleman from Rice county (Mr. NORTH) and I have been educated in that doctrine myself. My first political education was in the old democratic State of New Hampshire—the banner State of democracy in New England. The doctrine of negro suffrage prevailed there, and negroes were permitted to vote. But before I attained my majority circumstances caused my removal into the Whig State of Massachusetts, then the banner State of Whiggery. The same doctrine of negro suffrage existed there, and no one objected to it. Is it strange then that under that system of education I should still be in favor of that doctrine, unless proof is brought up here to show that it is wrong? I honestly believe that is right, and I claim the credit of being honestly of that opinion. All I ask of gentleman is to accord to me the same honesty they claim for themselves. If the word is retained in the Constitution I shall ask the people to strike it out: or if it is stricken out by us, I shall ask them to insert it.

Mr. NORTH. I have been alluded to with severity by the gentleman from Winona for speaking, perhaps inadvertantly, of an expression of the sentiments of the members of this Convention upon this subject, and of their voting contrary to their real sentiments on account of policy. The gentleman from Winona says I alluded to that upon my own responsibility. I always do that. I do not ask other gentlemen to assume any portion of the responsibility of what I say. All will recollect that in my discussion of this question, I did not discuss it upon any party grounds. Gentlemen will bear me witness that the only allusion I made to the Republican party was this: That if we acted contrary to our convictions in this matter, we gave up the distinctive features which distinguished us from the other party in our Territory, so far as Territorial questions were concerned. And we have had considerable discussion arising out of the fact that I alluded to the fact that some gentleman had expressed a determination to go against what they knew to be right, as a matter of policy under the circumstances. Now it has become so common for members of this Convention, openly to express the same sentiments I have expressed, that I do not consider that I transgress any rule of propriety in alluding to the oft repeated opinions of gentlemen composing this Convention; and I was surprised that the gentleman from Winona, (Mr. WILSON) who had expressed the same sentiments, should assume to get up here and deny the fact. Then, and not till then, did I allude to any expression of opinion of the members of this Convention as a whole, upon this subject.

The other gentleman from Winona (Mr. BALCOMBE) is unnecessarily excited upon this subject. Having been a little excited on a former occasion upon this subject, he ought to be a little forbearing now. The gentleman will bear us, upon our side, witness, that we have kept tolerably calm. We intended not to be excited, and I do not think we have been, nor have we made remarks which ought to be complained of. I see no necessity for excitement upon the other side.

Mr. BALCOMBE. It is my habit, perhaps, in discussing questions, to evince some interest and excitement. And the gentleman here refers to some excitement manifested upon this subject upon another occasion, outside of the Convention proper. I made some remarks then which I take back now, and one in particular. Gentlemen know to what I allude, and I need not repeat it.

But I will say this in reply to the gentleman's remarks and allusions, that I am somewhat excited when any man or class of men attempt to engross into the platform of the Republican party—and by the way I am under the necessity of now referring to party matters somewhat, because, under the circumstances, this Convention is, in one sense, looked upon as a party Convention, and the course they take will be taken as the course of that party upon this subject—I say I am excited when men attempt to insert a plank in the Republican platform, which does not belong to it. I am a little excited when any class of individuals, with peculiar views upon any subject, attempt to foist them upon the Republican party. I should be a little excited if some free trade Republican should attempt to insert into the Republican platform a free trade plank. I should be excited should some gentleman attempt to introduce some anti-Maine-law plank into the platform. I should be excited if some gentleman in favor of the old United States banking system,

should attempt to insert some plank upon that subject. And so I am here. I say where there is a matter of difference in the party, that subject matter of difference should be laid aside so far as party action is concerned. I do not object to gentlemen advancing their peculiar views and ideas upon any subject whatever, in any place or at any time, but I do insist upon it that we ought not to crowd upon others our own ideas on subjects upon which there is a matter of difference. Suppose I am in favor of negro suffrage—as I am—there are, perhaps, one-tenth of this Convention who are opposed to it. I am in favor of it, but think it proper that the question of striking out the word "white" should be left to the people. I say one-tenth of the Convention may be opposed to allowing the negro to vote. Now by striking out the word "white" you give the negro the right of suffrage, and thereby, perhaps, you compel that tenth to oppose the Constitution which they have been assisting to frame. Perhaps when we go home to our constituents, we may find a large number of our Republican friends who will feel under obligation to oppose it upon that ground, and at the same time we shall have the other party, who are all opposed to negro suffrage, arrayed against us. Then with one-tenth, one-twentieth, or one-half of our own party opposed to us, what would become of our Constitution?

The gentleman refers to the New England Constitutions. I grant that those Constitutions allow negroes to vote, with certain restrictions. But I believe all the Constitutions which have been framed of late years, contain this word "white," and Republican Conventions, which have had this matter under consideration heretofore, have proposed to do as we propose here—to leave the word "white" in, and submit to the people the question whether negroes shall have the right to vote. The Iowa Convention, which framed the Constitution which has just been voted upon by the people of that State, left the word "white" in the Constitution, and submitted to the people the question whether or not it should be stricken out. And I may say here, that a majority of the members of that Convention were Republicans. The same course was pursued by the Constitutional Convention of Michigan in 1850. The vote of the people of the latter State decided that the word "white" should remain in the Constitution, and it does remain there to this day. It is generally conceded, too, I believe, that the same decision will be made by the people of Iowa. The same question has been submitted to the people of other Western States, and the result has been the same.

Now what have we to expect in this Territory? Our population is made up largely of citizens from Wisconsin, Iowa, Michigan, Illinois, and other Western States. We are naturally, then, to expect that there will be such an opposition to giving the negro the right of suffrage, that if we submit a Constitution containing such a provision, it will be defeated. Indeed, I actually believe we may consider such a Constitution defeated in advance.

Mr. NORTH. I would ask the gentleman one question. He has said a great deal about engrafting a new principle upon the Republican party. I confess I dislike to hear so much said about the Republican party in this Convention, and so much about engrafting a new principle. But I ask the gentleman, if we put in the word "white" into the Constitution, do we engraft that upon the Republican party as a principle of the party?

Mr. BALCOMBE. If we leave the word "white" where it is, and leave it to a vote of the people to say whether it shall remain there, it is giving the whole subject matter into the hands of the people entirely. We take neither one position or the other—neither in favor of it, nor in opposition to it That is my ground.

As to the gentleman's first remark, as I said before, the circumstances are such that upon this question we are compelled to refer to it in a party view. We are looked upon as a party Convention, and our action here will be construed as the action of the Republican party. Our position on this subject will be considered as the position of the Republican party. For that reason, I protest against taking the position at all, and favor the reference of the matter to the decision of the people.

Mr. NORTH. I understand the gentleman to say that by inserting the word, and leaving it to a vote of the people, we do not

take sides either way. I respectfully ask the gentleman if taking the word out, and then leaving the question to the people, is taking sides either way, more than the other course.

Mr. BALCOMBE. It is under the circumstances.

Mr. NORTH. "'Tis strange such differ-" ence there should be, 'twixt tweedle-dum "and tweedle-dee."

Mr. FOSTER. The gentleman upon my left (Mr. NORTH) alluded to me I suppose, in some of his remarks, for I am the only person in this Convention that answers to his allusion. I differ with my friends upon both sides of this question, slightly.

Mr. NORTH. Upon the fence, I suppose?

Mr. FOSTER. Not exactly. I am one of those who are not so clear that this doctrine of equal suffrage and equal rights to all men, is not a plank in the Republican platform. My recollection is that in the platform laid down at Philadelphia the Declaration of Independence was reaffirmed, and made a part of that platform; and that on sundry other occasions, both in State and Territorial Conventions we have adopted resolutions which point to the idea of the political equality of all men. I do not say that it is so. There is a doubt in my mind and our friends upon the one side are entitled to the benefits of that doubt, if I say it is so; and our friends upon the other side are entitled to the benefit of the doubt, if I say it is not. (Laughter.) So you see I do not agree with either. They perhaps are both right and both wrong, and I do not pass judgment upon them.

I am individually in favor of progress, and I say now that I vote as I do purely upon the ground of policy. Gentlemen may think that is all wrong, but I think it is perfectly right. I vote against striking out the word "white" and upon that ground solely. I say we are part and parcel of the great party that has great objects to attain, and one is the repressing of the slave power, the preventing the extension of slavery, and generally the bringing the government back to the old platform of freedom instead of slavery. Now I have strong doubts whether the people of this Territory are educated up to the mark of equal rights, so as to endorse the doctrine of negro suffrage. I want this Constitution adopted, and I want two representatives in the House, and two senators upon the floor of the Senate from the State of Minnesota. Now believing that the people are not sufficiently educated up to the mark of adopting a Constitution which does recognize negro suffrage, I am not ready now to put in such a provision, and thereby risk the loss of all the benefits which may arise from its adoption. To get a minor good you lose a greater. We cannot get all; and therefore, upon the principle that I prefer a quarter of a loaf to no loaf at all, I shall vote in favor of retaining the word proposed to be stricken out.

Mr. PERKINS moved (at five o'clock and thirty minutes) that the Convention adjourn.

The motion was not agreed to.

Mr. HARDING moved the previous question on the amendment.

The previous question was seconded and the main question ordered to be put.

Mr. BATES demanded the yeas and nays.

The yeas and nays were ordered and the question being put, it was decided in the negative, yeas 17, nays 34, as follows:

Yeas.—Messrs. Baldwin, Bates, Cleghorn, Colburn, Davis, Gerrish, Hayden, Holley, Mantor, Messer, North, Phelps, Perkins, Putnam, Peckham, Secombe and Sheldon.—17.

Nays.—Messrs. Aldrich, Anderson, Balcombe, Bartholomew, Butler, Coggswell, Cederstam, Duley Dickerson, Escliflie, Foster, Folsom, Galbraith, Harding, Hanson, King, Kemp, Lyle, Lowe, McCann, McKune, McClure, Morgan, Mills, Murphy, Robbins, Russell, Stannard, Smith, Thompson, Vaughn, Walker, Watson and Wilson.—34.

So the Convention refused to strike out the word "white."

Mr. FOSTER offered the following substitute for section one:

"SEC. 1. Every white male person of the age of twenty-one years and upwards, (excepting persons under guardianship, *non compos mentis*, or insane,) belonging to either of the following classes, who shall have resided in the State for six months, and in the town, ward, or precinct, in which may he offer to vote, for ten days next preceding any election, shall be deemed a qualified elector at such election, viz:

"First.—Citizens of the United States;

"Second.—Every person of foreign birth, who shall exhibit a certificate from a proper court of record, that he has declared his intention to become a citizen of the United States, conformably to the laws of the United States.

"Third.—Civilized persons of Indian descent, not members of any tribe."

On motion of Mr. KING, adjourned.

TWENTY-THIRD DAY.

FRIDAY, August 7th, 1857.

The Convention met at 9 o'clock, A. M.

The journal of yesterday was read and approved.

EQUAL SUFFRAGE.

Mr. COGGSWELL offered the following resolution:

"*Resolved*, That there shall be submitted to the qualified voters of this Territory, at the time this Constitution is submitted to them for their ratification or rejection, the following proposition; and if it shall receive a majority of all the votes cast both for and against it, then it shall become a part and portion of the Constitution, otherwise it shall be null and void. Proposition First: Every male person, of either mixed or full African or negro blood of the age of twenty-one years and upwards, and who shall have resided in this State six months next preceding any election, and in the town, precinct or ward in which he claims the right to vote, ten days next preceding the same, shall be deemed a qualified elector, and shall have the right to vote for all officers which may be elected by the people.

Mr. C. said: My object in offering that resolution, is to ascertain if it is the wish, desire and intention of the Convention to have a proposition of that character submitted—and submitted as a separate proposition. During the course of the remarks made yesterday in regard to the rights of voters to vote at the different elections, it was intimated that a proposition of that character should come from the committee on the Schedule, and be made a part and parcel of the Schedule. I offer the resolution for the purpose of ascertaining the wish of the Convention, in that respect, for the reason that I am a member of that committee, and am exceedingly anxious to know something about what the duties of that committee are, and to enter, to a certain extent, upon their discharge.

Mr. WILSON. Permit me to explain. I referred yesterday to the matter spoken of by the gentleman from Steele county, and if I named the committee upon the Schedule, it was a mistake. I intended the committee on the Elective Franchise. I stated that the Chairman of that committee had, at that time, a proposition of that kind in his hands.

Mr. NORTH. I would inquire if the gentleman proposes that the committee on the Elective Franchise shall insert that as a separate article, or make a proposition to this Convention to be passed upon?

Mr. WILSON. In some States the proposition has been contained in the Schedule, and in others it has been submitted as a separate proposition.

Mr. NORTH. It should be either incorporated in the article on the Elective Franchise, or in the schedule—one or the other.

The PRESIDENT. The resolution having given rise to discussion, will lie over under the rule, until to-morrow.

Mr. CEDERSTAM, from the committee on the Elective Franchise, made the following supplemental report, which was read a first and second time and laid on the table to be printed, viz:

"At the same election that this Constitution is submitted to the people for its adoption or rejection a proposition to amend the same by striking out the word 'white' from Article —, Sec. 1, on the 'Right of Suffrage,' shall be separately submitted to the electors of this State for adoption or rejection in manner following: A separate ballot may be given by every person having a right to vote at said election, to be deposited in a separate box; and those given for the adoption of such proposition shall have the words, 'Shall the word 'white' 'be stricken out of the Article —, Sec. 1, on the Right of Suffrage?—Yes.' And those given against the proposition shall have the words, 'Shall the word 'white' be stricken out of Article '—, Sec. 1, on the Right of Suffrage?—No.' And if, at said election, the number of ballots cast in favor of said proposition shall be a majority of all those cast on that subject, the said word 'white' shall be stricken from said Article and be no part thereof."

Mr. GALBRAITH. I move that that report be referred to the committee upon the Schedule, with instructions to insert a proposition, embracing the substance of that report, in their report upon the Schedule.

Mr. MORGAN. I am not certain that the Schedule is the proper place for such a proposition. I have the impression that that question has been usually submitted in a separate article. I would further remark, that the Schedule is a part of the Constitution itself, and forever remains a part of the Constitution. I suppose that if this proposition is not accepted by the people, it will not be in the Constitution at all, and should not subsequently appear there. If it goes into the Schedule, it must necessarily remain in the Constitution.

Mr. GALBRAITH. I would simply remark, that the Schedule relates to matters connected with our transition State, and remains permanently in the Constitution; but after the first year most, if not all, of the Schedule is a dead letter. For instance, the first thing in a Schedule usually is, that all laws which exist at the time of the adoption of the Constitution, shall still exist until changed or amended under the Constitution. Now the Schedule is usually superceded the first year. The Schedule mostly is composed of matter, pertaining to getting the machinery of the Constitution into operation.

Mr. FOSTER. I think the gentleman from Hennepin county (Mr. MORGAN,) is in error in regard to the permanent character of the Schedule. It is true that all matters that are of a temporary character, are put in the Schedule. But there are matters there which may be permanent for some time. It contains the first apportionment under the Constitution; it prescribes the judicial districts; and it contains other matters of that kind. But at the same time, I believe it would be better to submit this question in a separate article, and that the proper way would be to refer it to the committee on Miscellaneous Provisions, of which the gentleman from Scott county (Mr. GALBRAITH,) is Chairman.

Mr. GALBRAITH. I care not what disposition is made of it. I notice that in some Constitutions, it is placed in the Schedule, while in others it is contained in other parts of the Constitution. Wherever it is, it must be in the Constitution, and it is not material with me.

Mr. SECOMBE. I hope the report will lie over until we get through the report upon which the Convention is now at work. For one, I prefer to see this proposition in this very article on the Elective Franchise. It is a matter which pertains strictly to that subject; and I prefer, not only that it be introduced as a proviso, but that it should forever remain in the Constitution, that it may be seen that although the word "white" be inserted in the Constitution, yet that it was inserted with the express proviso that the people should, by a popular vote, determine whether it should remain or not. At the proper time, I shall move that such a proviso be inserted as an amendment to section one.

Mr. GALBRAITH. As this matter has given rise to debate, I suppose it will lie over until to-morrow under the rule.

The PRESIDENT. It will.

ELECTIVE FRANCHISE.

The Convention resumed the consideration of the report of the committee on the Elective Franchise—the pending question being on the substitute offered yesterday by Mr. FOSTER.

Mr. HAYDEN. I move to amend section one by striking out the words, "every white "male inhabitant," and insert in lieu thereof, "every citizen of the United States."

The PRESIDENT. That is the same amendment which was offered yesterday and considered at length. The Chair is of opinion that it is out of order now.

Mr. HAYDEN. Does the Chair pretend to rule that a motion to strike out and insert, is to be precluded by a motion simply to strike out?

The PRESIDENT. The amendment is substantially the one offered yesterday by the gentleman from Rice county, (Mr. NORTH.)

Mr. HAYDEN. Will the Chair answer me the question whether a motion to strike out precludes a motion to strike out and insert?

The PRESIDENT. The Chair would state that as a general rule, where an amendment has been proposed and voted down, another substantially the same is out of order.

Mr. FOSTER. This motion is not simply to strike out, but a motion to strike out and insert something which entirely qualifies the sense of the section.

Mr. HAYDEN. I think my amendment is, according to parliamentary rules, strictly in order, and if the Chair decide otherwise I shall appeal from the decision of the Chair.

Mr. KING. Rule twenty-ninth says:

"A motion to strike out and insert shall be deemed indivisible; but a resolution to strike out being lost, shall neither preclude amendment, nor a motion to strike out and insert."

The PRESIDENT. The Chair is aware of that rule, and also of another rule laid down in Jefferson's Manual, which asserts the principle that where a proposition is offered similar to a former one, it is not in order. Still if it is the wish of the Convention to go into a discussion of this question again, the Chair is

willing to, and will waive all his objections to that course.

Mr. HAYDEN. I want to understand whether the Chair decides that I am in order or not?

The PRESIDENT. The Chair withdraws all objections.

Mr. HAYDEN. I wished to know that fact, because I believe in adhering to parliamentary usage.

I have offered the amendment because I deem it my right, privilege and duty to submit a few remarks upon this question. If I did not feel thus, I should certainly hold my peace. Being afflicted with a disorder which makes it painful for me to speak, I should refrain from doing so, did I not feel called upon to that extent, as to overlook my physical weakness. I offer the amendment because I am opposed to that first section as it was reported from the committees. I offer it because I am in favor of equal suffrage. I am aware that I am to be told that such an amendment will bring us into conflict with the decision of the Supreme Court of the United States. I I care nothing in regard to that, either one way or the other. It is said that inasmuch as the Supreme Court have decided against the claims of a certain class of persons to be citizens, that they could have no chance of equal suffrage, even though such an amendment should be adopted. Be that as it may, the adoption of it will put that matter in no worse condition than it would be under the section as it now stands. I trust the time will come when the people of these United States will change the decision of the Supreme Court in that respect; when they will place upon the bench of that court men who will not be under the dictation of the slave power; If, then, this amendment can make that matter no worse, I am in favor of adopting it.

But, sir, there are those here who have labored hard to show the expediency of leaving this first section just as it is. Now, sir, while I am willing to award to those who are opposed to me in opinion upon this point, the same honesty which I claim for myself, I am sorry that I am forced to believe that men claiming to be Republicans will adopt the principle of the old adage that we are bound to choose between two evils. I admit that in a philosophic point of view it is correct, but morally I deny that it is. I repudiate the idea, and I detest the doctrine. Sir, I recognize a higher law. I believe the higher law is the basis of all just legislation; that it is the standard by which to try the acts and decisions of men; and that so far from binding us to a choice between two evils, commands us to shun even the appearance of evil. I believe that this very doctrine of expediency is the doctrine which will ruin us as a Republican party in this Territory. Why, sir, my constituents are deeply afflicted to learn that such a state of things exist here. Men who have but recently left the pro-slavery ranks, have turned because we were taking a stand for the right. But they now say that if such a milk-and-water Constitution is framed, they leave us. I say, therefore, that in this point of view, it is wrong for us to keep that word in our Constitution, and it will be our ruin.

But one gentleman told us, that it was inexpedient to take the course I propose, in view or the great contest which is going on in this nation. Now, sir, in that very view I believe it is demanded of us to stand up for the right, and maintain the truth, and to yield to no expediency which shall sacrifice the right, though we may be delayed thereby somewhat, in attaining our ends. It is the only way to insure ultimate success. We can all see what compromises have done for this nation, and what the doctrine of expediency has done for political parties. It sank the old Whig party beyond the reach of resurrection, and it will sweep us into oblivion if we pursue the same course.

Another gentleman has told us that he was in favor of the first section as a matter of justice; that he believed it to be right. So far as that is concerned, there is consistency. I say if a man believes himself to be right, let him maintain his principles though the Heavens fall. But let us examine the consistency of the gentleman a little farther. He told us that the arguments of those who were in favor of equal suffrage proved to much. Let us see. He has told us that equal suffrage necessarily brings the black man to a social equality, and then he went on to describe that social equality by saying that it would be bringing the black man into our houses, and marry him to our daughters.

Mr. GALBRAITH. I hope the gentleman will not misrepresent me. I did not say any such thing at all: That is not the language I used, nor did I convey that idea.

Mr. HAYDEN. Did not the gentleman express that sentiment?

Mr. GALBRAITH. I did not. I said it was useless to attempt to give a man the elective franchise, and not equalize him socially.

Mr. HAYDEN. Did not the gentleman define social equality as the marrying the negroes to our own daughters?

Mr. GALBRAITH. That I did say.

Mr. HAYDEN. I did not wish to misrepresent the gentleman in any respect. Now, sir, I deny that raising any class to an equality of suffrage brings them to such a social equality as that.

Mr. GALBRAITH. Should it not?

Mr. HAYDEN. No, sir, I say emphatically. Now the Almighty has put a difference between the races in complexion.

Mr. GALBRAITH. I suggest, "All men "are born free and equal." Does that mean equal in right of suffrage? When you take one position, why do not you take it in all its meaning?

Mr. HAYDEN. They are born equal, that is with equal privilege to liberty, life and the pursuit of happiness; and not the right to break over what the Almighty has done. But now as to the gentleman's doctrine of social equality. After he had passed through the greater part of his speech, he urged the importance of bringing that class up to to a social equality, and then that they would be prepared for equal suffrage.

Mr. GALBRAITH. I said it was the duty of gentleman who urged equal suffrage, to do that; and I said it was impossible to bring them up to that.

Mr. HAYDEN. This difference of social equality is the very thing which is producing the amalgamation of the races; and if we wish to prevent that, we should bring them up to their equal rights. Why is it that amalgamation is now going on as it is? It is because colored persons have no right to resist the nefarious practices of the most brutal white man. Under the operation of that system, fathers are yearly selling their own offspring. But raise colored persons to their God-given rights and it will prevent the further amalgamation of the races.

But, sir, I am in favor of that amendment, in the second place, because I am opposed to the substitute offered by the gentleman from Dakota, and opposed to it upon principle. I believe it to be inexpedient, and the worst course we could take. There has been much said here in regard to equal rights and equal suffrage contained in the Declaration of Independence, and much has been said here in regard to the Republican party having but one plank. It has been said that old issues have become obsolete, that there is but one plank, and that, opposition to the extension of slavery. Now, sir, I am prepared to say that no Convention, either State or National, has been held since the Republican party came into existence, where any platform has been adopted, but what has incorporated into that platform the principles contained in the Declaration of Independence. And why did not the question of equal suffrage come up? Because it was not demanded. But I defy any man to successfully deny the assertion, when I say that the doctrine of equal suffrage is contained in the Declaration of Independence. Men may refer to it as a side issue as much as they please, yet it stands there, and the Republican party of this nation see it there. Why do we venerate our fathers? Is it because they rejected those principles? No, but because they stood by them, declared them to the world and maintained them against the odds with which they had to contend at the risk of their own lives. Now, sir, when we repudiate the doctrine contained in the Declaration of Independence, we render ourselves unworthy of our noble sires. Where are we to look for the origin of these self-evident truths? Back to the principles of eternal justice; and all that man has said or done, or can say or do, can never change them. They remain the same, and will when our heads are laid beneath the clods of the valley.

I am opposed then to the course which is proposed to be taken, because I believe it is wrong; and to show that it is wrong I step back to the teachings of him who spake as never man spake; I step back to him who taught with authority, and not as the scribes. And he said "Whatever ye would that men

"should do to you, do you even so to them, "for this is the law and the profits." Now men means all mankind. Now, sir, until we are ready to deprive ourselves of those privileges, we are wrong in depriving our fellow man of them, although he has a sable skin. And that great Teacher, when asked what was the first and great commandment in the law, answered: "Thou shalt love the Lord "thy God with all thy heart, might, mind and "strength; that is the first commandment; "and the second is like unto it; Thou shalt "love thy neighbor as thyself; upon these "hang all the law and the prophets." Now all the principles of the Bible, as revealed to man for our happiness here and hereafter, are opposed to the idea which gentlemen advance. I am not ashamed to-day, to say that I believe in such a religion, and that I intend here, and always, to maintain and carry out its principles. I feel in this that I have every thing on my side. And I tell you, as a matter of righteousness, that it is demanded of us to oppose such principles as have been advanced here.

But, sir, I wish here to say, before I resume my seat, that I have chosen this beautiful West for my home. Here I expect that the dust of my body will in the future mingle in the dust of Minnesota. I have sought it too as the home for my children. And I expect after I am dead that they will inherit and enjoy the blessings or bear the evils that may be brought upon them by the legislation which shall be had here and elsewhere. Now I ask for myself equal rights, and I ask equal rights for my children, and I ask, for the generations which shall come after us, the same privileges which I ask for my children.

This is a matter which should not be lightly passed over. It is a matter which will tell for weal or woe on the generations which shall come after us. When we shall have passed from earth away, the influences which we exercise even here, may tell to the weal or woe of those then living. It is something which we cannot look out of countenance. It is something which we have got to meet, and our constituents demand that we shall stand up for the right. The rising generation demands it of us; yea, the God that rules in the armies of the nations demands it of us.

Mr. PERKINS. As I had not yesterday an opportunity to explain my position, I propose now to say a word in defence of the course I have taken and expect to take. It was pretty freely charged yesterday that we were afraid to leave this question to the people. I wish it distinctly understood that I have no such fear. I want it understood further, that I am in favor of this amendment both upon principle and policy. And in what I say I do not undertake to combat the idea that a prejudice exists against the negro race, or that it exists to a greater extent in the northern portion of the United States than in any other country on the civilized globe. And gentlemen tell us with a great deal of assurance that it is an inborn and natural prejudice—a prejudice against color; a prejudice, native to the human heart. Well I know that it is very deep seated, and at first blush it would appear, that they are right in the assertion. But I deny that it is born in the heart of any man. This truth is illustrated by the manner in which children of both races, play together in the earlier years of infancy. This prejudice is not developed until they are taught that there is a social inequality. Still I am willing to take things as they exist, and I know that this prejudice cannot be very well eradicated at the present time. I know it is difficult to get around it, and I am disposed myself to imbibing more or less of that feeling. I do not pretend that I should like to ask a negro into my family, and adopt him as a brother, but I know, after all, that the prejudice which I do entertain is a most miserable and contemptible thing, and ought to have no existence in my bosom. And when I come to vote upon any great question of humanity, in which that class are interested, I do not mean to be governed by those feelings.

The people are not prepared for equal suffrage, and I apprehend if they are not prepared for it at this time, they never well be prepared for it, unless those who assume to be the leaders of the multitude prepare them. Somebody has to take the step in advance. I think our steps in that direction have retrograded very much since the formation of the Constitution of the United States, and the Constitutions of Vermont, Massachusetts and New Hampshire. I think then the people

were prepared for equal suffrage. Well if they were prepared for it then, why not now? It is because those who assume to be the leaders of the multitude are demagogues, and have introduced a species of demagoguism which is contemptible. Every year the public sentiment is growing more and more vitiated in regard to this matter. Now I do not like to hear gentlemen say that the public mind is not prepared now, when no effort has been made by those gentlemen to reform and purify the public sentiment in regard to this matter. I say the public mind is as well prepared now as it ever has been unless vitiated by this species of demagoguism which is incorporated into all the Constitutions which have lately been framed. Let us take a step in advance, and let us not say that the people of Minnesota are not prepared for it, and that they have retrograded, and are not willing to come up to the support of the Declaration of Independence. If they are not prepared, let us take a step to educate them. I do not assume however that they are not prepared. I say let every member of this Convention go home to his constituents and talk this matter over, not as demagogues, but in the sincerity of their hearts, and I tell you that the people will listen to you, and will see the reasonableness of this thing. But as long as we hold back and are not willing to take the strife in advance, you may be pretty sure that the people will not advance.

But we were told yesterday that our arguments proved too much, because the Declaration of Independence included women as well as men, and that in order to be consistent we should also incorporate into the Constitution a clause granting the right of suffrage to women. Now I am not inclined to be drawn into a discussion of the subject of women's rights, as that is not legitimately before the Convention. But I think I might answer the question in brief, and I will take his own argument against granting equal suffrage to the African race. The Almighty has made a distinetion between man and woman, which it will be very difficult, if not impossible to eradicate. Now if it is an argument to be thrown into our faces, when we talk about equal suffrage, that the Almighty has made a distinction, I hope gentlemen will not offer that argument again unless they can show by some process of logic, that, if a distinction has been made, it is a justification for a superior race subjecting and submitting an inferior one.

Now as a matter of principle, I am in favor of equal suffrage. I am in favor of it also, from the fact that when I belong to a party, and am associated with that party in opposition to another, I always want a principle to fight for. I do not want to fight for a technicality, a shadow, a straw. Gentlemen well asked, yesterday, what we were fighting for in this Convention; what the contest in the late canvass was about, and what distinction there was between the Democratic and the Republican parties, so far as State politics were concerned. What was the answer? Instead of meeting the question fairly, and stating what the difference was, gentlemen got up and said, we ignore the question of woman's rights; we ignore the question of temperance; we ignore the question of suffrage. That was the response made every time to the question. Well why were gentlemen disposed to dodge that question? I ask gentlemen to point out any distinction between the Republican and the Democratic parties, so far as the late canvass was concerned. Where, in the name of Heaven, is the difference between the two? So far as anything I can see, I would just as soon be a Democrat as a Republican—that is, so far as State politics are concerned.

We had a very hotly contested election. At first, it was supposed that the Democrats had won the victory, but afterwards, as the news from Southern Minnesota came in, it was discovered that she had sent an almost unbroken phalanx of Republicans to this Convention; and what rejoicing there was all over the country! What was that rejoicing for? Why, that they had sent Republicans instead of Democrats to this Convention. That was all the difference between the two. Gentlemen deny that the suffrage question had anything whatever to do with it. They deny it, and have the effrontery to tell us—it looks to me like effrontery—that the question of equal suffrage never was a principle of the Republican party, and that that party had only one idea and that was the restriction of slavery, and the keeping it out of the Territories.

Now, in the late canvass, we sent delegates here to frame a Constitution for the State of Minnesota. We did not send delegates here

to elect United States Senators or representatives to Congress, and the election, if it had any, had a very remote connection with national politics. We came up here and considered it of great importance, that we should have the control of this Convention. We caucussed about it before the assembling of the Convention. It was so all important that we should have the control of this Convention—as we certainly were entitled to it—that we met in the council chamber, and it is undeniable, that there we stayed until the next morning, and in the morning, when the doors were opened we came in here. Although we received a proposition from the Democratic party not to organize until twelve o'clock, M., yet we were not caught by any lures, and keeping it in mind that it was very important that we should have the control of this Convention, we stayed here, and by vigilance and vigilance only, we got the control. And this is emphatically the Republican Convention, or it is considered by the country at large as a Republican Convention. I do not know a man in the Convention who would acknowledge himself a Democrat.

Well, what was all this fuss for? Did we expect to elect United States Senators or Representatives to Congress? Not at all. I suppose we wished to form a Constitution which should be Republican in its character, and we claimed that there was a distinction between us and the Democratic party. And now at this late hour, when gentlemen are called upon to point out the difference, they dodge the question, and no attempt whatever is made to answer it. And I apprehend that no gentleman can point out the distinction. They say we have incorporated into our creed a portion of the Declaration of Independence. Very good. So have the Democrats. We say we are grateful to God for our civil and religious liberties. I have no doubt the Democrats will mouth that quite as lightly as we have done it. Are we any ahead of the Democrats in that respect? Not a whit. I have no doubt the Democrats will say that "all men are born equally free "and independent;" because it is specious. They will say that "they are entitled to cer- "tain inalienable rights, among which are life, "liberty and the pursuit of happiness," and that "to secure these rights governments are "instituted among men, deriving their just "powers from the consent of the governed." I would here inquire if that is a plank in the Republican platform—that to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed? Does that squint towards universal suffrage? Gentlemen say the Declaration of Independence has nothing to do with it. What does that clause look like. It looks to me as if it meant that all those born and living under the government of the United States, and under the control of its laws should have a hand in making those laws. It looks like Republicanism. Now who will say, after reading that clause taken from the Declaration of Independence, that it has nothing to do with the question of suffrage, and is not a principle in the Republican platform?

Well, I say I have no doubt the Democrats will mouth those things just as strongly as we do. There is also another clause which they will incorporate into their Constitution, for there is not a Constitution but what contains it. "There shall be no slavery or in- "voluntary servitude in this State, except for "punishment of crime, &c." Does any gentleman doubt that the Democrats will have that clause in their Bill of Rights? Certainly not.

Well then what is the distinction; where is the difference between the two Constitutions? Gentlemen cannot point out any difference at all, and so far as they can see, it is just as well so far as the Constitution is concerned, and so far as the party in this Territory is concerned, in reference to State politics, to be a Democrat as a Republican. Now, I thought when I was passing through the canvass that there was some principle at stake. But I am informed by those who are good Republicans that there is no principle at stake; or if there is, nobody can tell what it is. If that is so I am in favor of taking one step in advance of the Democratic party before our Constitution is sent out to the Republicans of Minnesota. What will the Republicans of Minnesota care about technicalities, or the rules of this Convention, or Jefferson's Manual? Do you suppose they will stop to investigate parliamentary rules to see whether the Republicans did actually get the control of the Con-

vention or not, or whether it is really the Republican Convention or not? The sentiment of the Territory will be divided, and many Republicans will tell you that they are doubtful and that they do not know whether the Democrats or Republicans are right, and furthermore they will tell you they do not care. Now how are you going before the Republicans of the Territory, if you have not principles to discuss? All you have to lean upon is parliamentary law. What are you going to tell them? Suppose the Democrats get all these Republican clauses into their Constitution, and make as good a judiciary and executive department as you do, how are you going to advocate your Constitution above theirs, and show the people that it is, in any respect more Republican than the other? It seems to me that my mouth would be closed, and that I should have no principle whatever to rest upon. Now if I am identified with any party whatever, I want a principle to fight upon, and when I go before the people, I want to show them that there is a principle at stake. But the way this Convention proposes to arrange the matter, there is no principle whatever, and it will be the ruin of the Republican party in Minnesota.

M. GALBRAITH. I had thought that after a question had been once introduced into this body, and full privilege given for discussing it, that would end the matter. But I am mistaken, and some of the very gentlemen who have fired this bomb-shell upon us today, have heretofore advocated that very identical doctrine; and why bring up the same question again after it has been once decided by a two-third vote of the members of this Convention? But it has been sprung upon us, and I wish not to go into an argument upon it, but only to say that the persistent misrepresentation of men's views, comes with a very ill grace from those who defend the absolute right as the highest expediency. When a man says anything upon this floor, and says it in good faith, it should be taken for granted, by others, that he does not say it as a demagogue and that he is lying. Gentlemen should be careful how they throw out these misrepresentations, either by innuendo or otherwise. The gentleman who has spoken here to-day so freely about equal rights—absolute and inalienable rights—has thrown out by innuendo, that in my few remarks, yesterday, I advocated woman's rights, and then he built up a man of straw that he might knock it down. He represents me as advocating woman's right to vote. I submit that I advocated no such thing. I put it upon the record that I did not.

Mr. PERKINS. Allow me to explain.

Mr. GALBRAITH. I hope you will.

Mr. PERKINS. I did not represent the gentleman as advocating woman's rights, and denied being an advocate of them myself. I only used the gentleman's argument, against the negro race, and turned it against a woman's right to vote.

Mr. GALBRAITH. The argument I used was this: that there was a distinction between the white and the black man—a distinction impressed by nature—and that if such distinction should make no difference between the rights or privileges of persons, then the gentlemen, to be consistent with themselves, should bestow the right of suffrage upon women. The exact language of the Declaration of Independence is, "All men are created equal." Then there is another principle in that same Declaration, and that is, that taxation and representation are inseparable. That was the hinge upon which the whole revolution turned.

Mr. HAYDEN. Go on a little further.

Mr. GALBRAITH. How far?

Mr. HAYDEN. And that they "are en-
"dowed by their Creator with certain inalien-
"able rights, &c."

Mr. GALBRAITH. Upon those two principles it is advocated here, that all men should vote. Upon those grounds is universal suffrage advocated, and no other. Because all men are created equal, and because, in a government, taxation and representation go together, it is taken as a self-evident proposition that every person who is created, and every person who pays taxes, should have a voice in the government. Now no man, who can see the consequences of an argument, but must say that those gentlemen are forced to admit, from their own premises, that a woman must also vote. The conclusion is irresistible, and more irresistible from the fact that all females in the land are liable to pay taxes to the government for their property. Now I wish gentlemen to be consistent, and they

who advocate universal suffrage, relying upon the Declaration of Independence, must include the whole population of the country without distinction of color or sex—for to such a result does their argument lead them. They talk to us about advocating a distinction between the races. It is not the color particularly that we talk about. There is a distinction between the races as fixed as the eternal hills, and gentlemen may talk as much as they please, there stands the palpable fact before their eyes. It is as palpable as the noon day sun. I appeal to gentlemen if it is not so? But we create public sentiment, say gentlemen. We create public sentiment upon this subject! As well, we go to work and turn the Niagara to flow its mighty waters upwards! Talk of creating public sentiment! We may endeavor to correct that sentiment, if possible. If those gentlemen who wish this sentiment corrected, can correct it, well and good.

The arguments gentlemen have used are such that to be consistent, they should, as a matter of course, be the advocates of woman's rights. I said then, and I say now, I should vote against this amendment, for the good reason that I believe that the African, as a class, are not qualified to be voters. I do so honestly and fearlessly.

But say gentlemen, if the Democrats make a Constitution just like ours, there will be no distinction between the parties. I make no stump speech in this Convention about this being a Republican or a Democratic Constitution. In regard to the fundamental laws of the Constitution, we are Democrats and Republicans; we are all Americans, and may the sun of heaven cease to shine upon this, or any other Convention, when it can be said that upon the fundamental principles of our Constitutions we differ; and may it cease to shine upon Republican America when we shall not all unite upon the great principle which underlies our Constitution, and the flag of our common country. Upon questions of national and local policy we may differ, but upon the grand fundamental principles of government we agree; and if the Republican party and the Democratic party should merge their labors into one Constitution here, God speed the day. If this is a plank in the Republican platform, let us differ about it. Gentlemen say that it is. I care not whether it be or not. I ask that question not here. I vote upon this question from my own convictions of right, and other gentlemen vote upon it according to their convictions of right. But I say again, that to bestow equal suffrage upon the negro race, without recognising their social equality in community, is more of an injury than a good.

Mr. McKUNE. I move to lay the amendment to the substitute on the table.

Mr. HAYDEN demanded the yeas and nays upon laying the amendment on the table.

The yeas and nays were ordered, and the question being taken, it was decided in the negative, yeas nine, nays thirty-eight, as follows:

Yeas—Messrs. Foster, King McKune, Morgan, Mills, Smith, Thompson, Watson and Willson.

Nays—Messrs. Aldrich, Anderson, Ayer, Bates, Bartholomew, Cleghorn, Colburn, Coggswell, Cederstam, Coombs, Davis, Duley, Dickerson, Eschlie, Folsom, Gerrish, Hall, Hayden, Harding, Hudson, Hanson, Holley, Lyle, Mantor, McCann, McClure, Messer, Murphy, North, Perkins, Putnam, Peckham, Russell, Sheldon, Secombe, Vaughn, Walker and Mr. President.

So the Convention refused to lay the amendment upon the table.

Mr. FOSTER. I trust we shall now come to a vote upon the amendment to my substitute—the amendment to strike out the word "white," and insert "citizens of the United "States"—and that all will understand that it is substantially the same question decided yesterday. It is, after all, the simple question whether the word white shall, or shall not be in the Constitution. I voted to lay it upon the table, but I suppose that other gentlemen voted against laying it upon the table, preferring to have a direct vote upon it, as the best policy. This question has been sufficiently debated, and I do not wish to discuss it any more.

Mr. NORTH. One word before the vote is taken upon this amendment and substitute. I did not intend to say anything more upon the question, but the gentleman from Scott county (Mr. GALBRAITH) urges very strongly that we should not trample upon the Constitution. Now it seems to me that the substitute does trample upon the Constitution, and that is my objection to it, and to my mind it

is a very strong objection. It tramples upon the Constitution by cutting off a very large class of citizens of the United States from voting in this State. If it is adopted in its present form, there are thousands upon thousands of citizens of the United States, should they come to this State, who could not vote. Let us look at it for a moment, and at the same time take into account the fact that in New York and other States, colored persons are citizens of the United States. They are entitled to vote in those States under certain restrictions. They are citizens of the United States to all intents and purposes, and have been so regarded. Now none af that class of citizens of the United States are permitted to vote, under this substitute. Mark the language.

"Every white male person of the age of twenty-one years and upwards (excepting persons under guardianship, *non compos mentis*, or insane) belonging to either the following classes, &c., shall be deemed a qualified elector at such, election, viz: *First*—Citizens of the United States."

—That is to say, citizens of the United States who are white male persons, may vote. It does not go the full length of saying that every citizen of the United States may vote. I object most decidedly to having our Constitution trample on the Constitution of the United States, and upon men who are citizens under that Constitution. I revere that instrument, because it is an impartial Constitution, and knows no such thing as complexion. I am in favor of the amendment to that substitute, because it includes all citizens of the United States regardless of color.

The question recurring upon the amendment, Mr. GALBRAITH moved a call of the Convention.

The motion was agreed to, and the roll being called, the following members failed to answer to their names;

Messrs. Billings, Bolles, Butler, Coe, Kemp, Lowe, Robbins and Winell.

Mr. HARDING moved that all further proceedings under the call be dispensed with.

The motion was lost, and the Sergeant-at-Arms was directed to report the absentees in their seats.

After an interval of half an hour—

Mr. CLEGHORN moved to reconsider the vote by which the Convention refused to suspend all further proceedings under the call.

The motion to reconsider prevailed, and then all further proceedings under the call were dispensed with.

The question was taken on the amendment offered by Mr. HAYDEN, and it was decided in the negative.

Mr. SECOMBE moved to amend the substitute by striking out the word "ten," and inserting "thirty," so as to require a residence of thirty days in the town, ward or precinct.

Mr. FOSTER. I would remark that perhaps it would be better not to put in any definite time, but to leave it with the Legislature. We could do that by using the phraseology, "and in the town, ward or precinct, as "may be prescribed by law."

Mr. SECOMBE. In reply, I would say that if we do not insert the word, the Legislature will have no power. Leave it blank, and it is the absolute right of those who have resided within the State six months, to vote.

The amendment was not agreed to.

Mr. MORGAN moved to amend the substitute by inserting after the word "birth," in the first line of the second subdivision, the words:

"Who has resided in the United States two years next preceeding the election at which he may claim the right to vote."

The amendment was agreed to.

Mr. FOSTER. I desire to modify the phraseology of the first subdivision of my substitute. I wish to insert in place of "citizen of the United States," the words—

"Persons, not aliens, born in the United States, and persons of foreign birth, who have become citizens of the United States, according to the laws thereof."

The reason why I desire to make that alteration is, to meet a difficulty which would exist in the phraseology, if the word "white" should be stricken out. If the phraseology stands as it is now, and that word be stricken out, it still leaves it a mooted question before the courts, who are citizens of the United States, and the will of the people might be defeated through the judiciary. If we go to the trouble of having the people vote upon the question, it is not worth while to leave it an open question at all. I offer it as an amendment.

The amendment was rejected.

Mr. SECOMBE. I move to strike out the second and third subdivisions of the substitute, and insert the following:

"*Second*, Every person who has been an inhabitant of the United States for two years next preceding the election at which he shall claim the right to vote, shall he a qualified elector;

"*Provided always*, No alien by birth, who is not a citizen of the United States, shall have the right to vote at any election, unless he shall exhibit to the proper officer a certificate showing that he has declared his intention to become a citizen of the United States in conformity with the laws of the United States on the subject of naturalization; and,

"*Provided further*, That no person shall vote at any election, unless he shall have complied with the requirements of the Registry Act hereafter provided for."

I desire that the article upon the Elective Franchise shall be certain and definite in regard to the question of negro suffrage. I desire that we should insert such a provision in the article that the people may know what it means when they come to vote upon it. If the provision should remain as it now is in the substitute, and if the people of the Territory of Minnesota who propose to form a State, should decide by a majority vote to strike out the word "white," it would still be left an open question—whether or not, negroes were citizens of this State, for the reason that the only provision for any class of persons other than those of foreign birth, is that they shall be citizens of the United States. As the substitute now stands, there are but three classes of persons who are accorded the right of suffrage: first, citizens of the United States; second, persons of foreign birth, who have declared their intentions to become citizens of the United States; and third, half-breeds, who have adopted the habits of civilization. Now I say, should the people of Minnesota decide, by the vote which they will be called upon to give upon this question, to strike out the word "white," they would not, in so doing, surely accomplish the object they would have in view in voting to do so. It would still be left to the decisions of the Supreme Court of the United States, or the Supreme Court of the State of Minnesota, (the decision of the Supreme Court of the United States being given, the Supreme Court of the State would be bound by it,) to decide whether colored persons were or were not citizens of the United States, and therefore citizens or not citizens of the State of Minnesota under the provisions of a Constitution like those in the substitute. I therefore desire that some amendment may be made so that the matter may be put in a definite form, and that the people, when they vote to strike out the word "white," may be assured in so doing, that they have accorded to colored persons the right of suffrage and citizenship in this State.

Now if the amendment I have offered should be adopted, there would be three classes of persons who would be entitled to the right of suffrage: first, citizens of the United States; second, foreign persons, who had resided in the United States two years, and had declared their intentions to become citizens of the United States; third, persons who had been inhabitants of the United States for two years and who were not aliens, although they might not be, by the decisions of the Courts, citizens. In other words, if the Courts should decide that negroes were not citizens of the United States, they, not being aliens, would be citizens of the State of Minnesota. I hope, therefore, the amendment will prevail upon that point.

In the second place, it is there provided that no person shall be allowed to vote unless he shall have complied with the terms of the Registry Act, which, it is to be presumed, we are going to provide for in a subsequent section. But if there be members of this Convention who are in favor of the first part of the amendment, and yet not disposed to restrict the right to vote to those who have had their names registered, an amendment can be made to that effect.

Mr. COLBURN. I do not know that I understand the gentleman, and I desire to ask him if he is understood to say that if a case should come before the Supreme Court of the State, involving the right to citizenship of any person, or any class of persons, whom the Supreme Court of the United States have decided not to be citizens, the Supreme Court of the State would be obliged to render a decision in accordance with the Supreme Court of the United States?

Mr. SECOMBE. If the Supreme Court of the United States should decide that negroes

are not citizens of the United States, the Supreme Court of the State would be bound by that decision, and negroes would not, under our Constitution—provided this substitute is adopted as it is—be citizens of this State.

Mr. COLBURN. I did not then misunderstand the gentleman. I first understand him, however, to say that the Supreme Court have decided that Africans are not citizens of the United States.

Mr. SECOMBE. I did not say so, and I do not think they did.

Mr. COLBURN. Then the gentleman bases his amendment on the presumption that they will so decide. I am not willing to presume any such thing. If they have not been, I will not presume that they will be, guilty of any such inconsistency, and I will not imply it by providing against any such contingency.

Mr. FOSTER. The point the gentleman argues is the very one which was just decided against by the Convention on the vote upon the amendment, which I myself offered to the substitute. The Convention decided that they would not make any alteration in that respect. Consequently, so far as that point is concerned, it is settled, and the gentleman's amendment is but bringing up the question again.

There is still another point which that amendment reaches, and to which I wish to call the attention of the Convention. It excludes all civilized persons of Indian descent, not members of any tribe. We had some talk about that yesterday. I trust we shall be disposed to do good so far as we can, and that we will not attempt to disfranchise a large body of citizens who are now voters. This does not present the question of admitting any class to vote, who have not heretofore enjoyed that privilege, but it presents the question of absolutely depriving, of that right in future, a class who have heretofore enjoyed it. I think we should not do that, and I trust the amendment will not prevail for that reason.

Mr. SECOMBE. I would state, in reply to the remarks of the gentleman from Fillmore, (Mr. COLBURN,) that although I do not believe that the Supreme Court of the United States have decided that negroes are not citizens, yet I believe that they failed to decide that question, for the simple reason that the question was not before them; that they attempted to decide it, and that so far as the expression of their opinions in concerned, they did decide it. But from the fact that the question did not come before them—they themselves deciding that it did not—the case went off upon the simple point that they had not jurisdiction of the case; or, in other words, that the black man who had been a slave was not a citizen of the United States within the meaning of certain acts of Congress, to the extent that he might bring a suit in the United States Court, and, therefore, they had not jurisdiction of the case. That was the full extent to which the decision of the Court went. But at the same time, a majority of the Judges of that Court did express an opinion—extra-judicially to be sure—which would go to the extent that a black man is not a citizen of the United States, and could not be. I am satisfied that with the present construction of that Court, the question would be decided in that manner. Therefore, I desire that we shall free the Constitution which we are about to present to the people from that doubt, that they may know, when they vote to strike out the word "white," that they do vote absolutely and positively that blacks may vote.

Mr. McCLURE. I had supposed that the Supreme Court had made a pretty direct decision upon that very point. I believe that the judges in the Missouri court decided not to entertain the suit, and that they had not any jurisdiction, from the fact that the black man was not a citizen of the United States. I believe the Supreme Court of the United States affirmed that decision, and in affirming it, decided that the negro could not be a citizen of the United States. Now so far as the binding force and effect of that decision is concerned, it would go this far; the judges of the Supreme Court of Minnesota, being Democrats, would feel themselves bound by that decision, because it would be carrying out the views of their party. If the judges were Republicans they would treat the decision of that court as they ought to, and consider it no more binding upon them than it is binding upon the Supreme Court of the United States. I hold that the decision of the Supreme Court upon that point would be no more binding upon the Supreme Court of this State, than a

decision of the Supreme Court of this State would be binding upon them. In my opinion then, it will make no difference whether you adopt the amendment or not, for the court if Democratic, will construe the Constitution so as to favor the views of their political party.

Mr. SECOMBE. I shall be compelled to disagree with the gentleman upon the facts of the case, and I will refer him to the decision of the Circuit Court of the United States, for Illinois, composed of Judge M'Lean of the Supreme Court, and Judge Drummond, Circuit Judge of Illinois; where they have decided not only that a black man is a citizen of the United States, but that the Supreme Court of the United States in the Dred Scott case did not decide to the contrary. The ground is taken distinctly by Judge M'Lean, that the only point decided was this: that a negro who had been a slave, was not a citizen of the United States within the meaning of the particular act of Congress, which provided what persons might bring suits in the United States courts. The case in the Circuit Court of Illinois came up on this wise: a negro brought a suit in the Circuit Court of the United States, and the question of law was raised either by demurrer, or by appeal from the jurisdiction, that a negro could not bring an action in the United States Courts. The point of law was overruled in the Circuit Court of the United States for the circuit in which Illinois was included.

Mr. McCLURE. I wish simply to say that the gentleman does not correct me upon that point. I say it is the understanding of the Democratic party, and the understanding of a majority of the Supreme Court of the United States, that they did decide that question. I am not going to take issue upon what the particular views of Judge M'Lean may or may not be or what he may have decided. I say that the court have decided that question, and that the Democratic party holds that it is so decided. I am arguing about matters as they are now, and not as we might wish them to be.

Mr. COGGSWELL. I have been remarkably quiet for me, to say the least of it during this discussion, (laughter,) and you must give me credit to that extent, (a voice, "you shall have it.") And what I have to say now will be very short, certainly. I think we can dispose of this question of the Elective Franchise this afternoon, and do it understandingly. I had supposed before this report was brought before the Convention, that there was a general understanding that we would insert the word "white" here, and then submit to the people the question whether negroes should vote, and if a majority of the votes was in favor of it, then that negroes should be permitted to vote; and if a majority of the voters were opposed to it, then they should not have that right. I understood that that was the general prevailing sentiment among the members of this Convention. But it appears that I was mistaken in regard to that matter. Now so far as I am concerned individually, I stand in this position: I came here as a member of this Convention for the purpose of aiding and assisting in drafting certain propositions to be submitted to the people, and that none of those propositions shall have any binding force or efficacy until they have been ratified by the people; and so far as I am concerned individually, I would like, provided it could be done conveniently, to have every single article which will be incorporated into our Constitution, submitted to the people separately. But that cannot be done conveniently, and hence I am in favor of having the main portion of the Constitution submitted to the people as one whole thing, and certain other matters separately. When this separate proposition is submitted to the people, and I go home to my constituents, I apprehend that I shall be just as much in favor of the rights of colored persons in this Territory as my friend from Rice County, (Mr. NORTH) or my friends from any other county; and I will tell the people that, in my judgment, the colored population of this Territory, over twenty-one years of age, who aid and assist in bearing the burdens of taxation, should have a voice in the enactment of the laws which govern and control their action.

But so far as the manner of submitting this question is concerned, I am decidedly in favor of having it submitted as a separate proposition, as to who shall and who shall not vote. I say that I am in favor of giving to every male citizen of the United States, who is over twenty-one years of age, who has been a resident of this State six months, and a resident of the county ten days, the right to vote. In the next

place I am in favor of every white male inhabitant, over and above that age, and who is of foreign birth, who is a resident of the Territory at the time of the adoption of this Constitution, having the right to vote. Then I am in favor also of giving the right to vote to every male inhabitant of foreign birth over twenty-one years of age, &c., after he has been here two years—a time sufficient to acquaint himself with the general machinery of government.

Now I want that expressed in as plain and definite language as it possibly can be. And here I wish to say, that in looking over this report of the committee, my judgment is, that they have not chosen as good language as I think they might have chosen, and which would have conveyed more distinctly and definitely the rights and privileges of persons therein named.

Besides all that, I am opposed to the latter part and portion of that substitute, and in favor of substituting something like what I hold in my hand, and which I shall offer at the proper time, either in the shape of an amendment or substitute. It is in this language following:

"Every male person of the age of twenty-one years and upwards, belonging to either of the following classes, and who shall have resided in this State for the period of six months, and in the town, precinct, or ward ten days, next preceding any election, shall be deemed a qualified elector, and have the right to vote for all offices elective by the people—

"First—Citizens of the United States.

"Second—White persons of foreign birth who shall have declared their intention to become citizens of the United States, in conformity to the laws of Congress on the subject of naturalization, and who are residents of this State at the time of the adoption of this Constitution.

"Third—White persons of foreign birth who shall have declared their intentions to become citizens of the United States in conformity to the laws of Congress on the subject of naturalization, and who have been residents of the United States for the period of two years.

"Fourth—All male persons of mixed Indian blood, and all full blooded Indians who have adopted the habits and customs of civilized life, of the age of twenty-one years and upwards who can write their own names and read this Constitution either in their own or the English language, and who shall take an oath to support the same, and who are not members of any tribe and do not receive the annuities from the United States, and who shall have resided in the said county, town, ward, or precinct, the same length of time required of other voters, shall have the right to vote at any and all elections. *Provided*, however, that no such person shall be entitled to the elective franchise, unless he shall have obtained a certificate from some judge of the circuit or supreme court showing that upon a thorough examination he possesses the above qualifications. And it shall be the duty of the Legislature from time to time to provide for the manner in which said examination shall be conducted."

Now that expresses my views in regard to the elective franchise pretty clearly. And here let me say, that the fourth clause which I have introduced, is introduced upon the request of Mr. RIGGS, Indian Missionary among the Indians upon the Sioux reservation. The clause he desired me to introduce was a little different from this, but upon showing it to him, he said it would answer better than nothing, and would throw restrictions around this matter of fraud committed under color of the right of these mixed, and full blooded Indians to vote. It will put an end to this matter of dressing up Indians, giving them an appearance of civilization, leading them up to the polls to vote, and then leading them away, stripping off their clothes, and putting them upon other Indians for the same purpose. We claim that that thing shall not be done. But as I am satisfied that there are certain mixed blood Indians as well qualified to exercise the elective franchise as many of those who will undoubtedly exercise it, I am decidedly in favor of extending it to them under these restrictions.

Now I hope this thing will be put in a nut shell, and in such language as cannot be misconstrued, which all will understand. If the language I have proposed is any better than the language made use of by the mover of the substitute, or by the mover of the amendment, or by the committee, I should like to see it adopted; and I would like to see the same principle incorporated into the article upon the elective Franchise. I certainly am opposed to have the right of the negro to vote incorporated into the Constitution and made a part and parcel of it. I am opposed to making the fate of the Constitution depend upon that. But I am in favor of having it submitted to the people separately, and if the people desire that negroes shall vote, let them vote. So far as the people of Steele county are concerned, they will show

as good a vote for it, as the votes of Rice county, taking into consideration their population.

Mr. WILSON. I think amendments proposed to this matter, will show that it has not been looked at as much, probably, by those offering amendments, as it has been by the members of the committee which made the report. I agree with my friends from Rice and Steele counties exactly as to who should be entitled to vote, and I think the original report of this committee arrives at just that. I am not here to defend the language of that report, though I think that this first section is in better language than any which has been offered as a substitute. I like it, as far as language is concerned, and certainly, so far as sentiment is concerned. There are two or three things to be avoided. If the word "white" be stricken out, it is necessary to have this part of the Constitution in a proper shape to correspond to that change. Any person by looking at the report as we have drawn it up, will see that it will be left in proper shape, for it was drawn with special reference to that fact.

Some of the amendments which have been proposed, I object to *in toto*, and if this Convention is going to pass some of them, I may be compelled to change my position, for it then becomes a choice of evils. For instance, making it necessary that every person of foreign birth should exhibit a certificate of some officer that he has declared his intention to become a citizen of the United States. I object to that, in the first place, because it is an implication that aliens or persons of foreign birth are not as honest as other people are. That would be sufficient to influence my vote, and I shall oppose it directly and indirectly. I shall never submit to any thing of that kind unless I am compelled to.

But there is another reason still stronger why I oppose it. There are many aliens by birth who become citizens of the United States and never declare their intentions to become citizens. Does the gentleman from Dakota, wish to introduce a new law upon the subject of naturalization?

Mr. MORGAN. I believe that clause upon which the gentleman comments, does not apply to any who are citizens, but only to those who are not citizens.

Mr. WILSON. I may be mistaken. I must read it.

Mr. SECOMBE. My amendment does not, because the provision is "citizens of the "United States."

Mr. WILSON. But it has its application to the fullest extent on the other account I spoke of, and to that I cannot agree. Suppose a foreigner has declared his intentions to become a citizen, but has lost his certificate, and the judges of election declare that they cannot take his oath? Must he be compelled to send all over the United States for it, before he shall be permitted to vote? It is wrong and I am opposed to it, and I trust the Convention are opposed to it.

Further, the original report of the committee provides that foreigners who have been residents of the Territory for six months, and resided in the Territory at the time of the adoption of this Constitution, shall be qualified electors. I believe they should be. They came here and endured the hardships and privations of frontier life, and helped to make Minnesota what she is, and they should be electors. I think this Convention thinks so too.

I am also opposed to this wholesale making of Indian, or mixed bloods, qualified voters. There are many of them I would wish to extend that privilege to, but not promiscuously. Now the ninth section of the article reported by the committee, provides that—

"No persons belonging to any Indian tribe, or who shall not have assumed the habits of civilized life, shall ever be a qualified elector."

—What does that mean? It has no force whatever, if the word "white" is left in the Constitution.

Mr. KING moved (at twelve o'clock and fifteen minutes) that the Convention adjourn until half-past two.

The motion was agreed to, and thereupon the Convention adjourned.

AFTERNOON SESSION.

The Convention assembled at half-past two o'clock, and immediately resumed the report of the committee on the

ELECTIVE FRANCHISE.

The pending question being upon the adoption of the substitute offered by Mr. FOSTER.

Mr. CLEGHORN moved to amend the third clause of the substitute by adding thereto the words—

"*Provided*, they comply with the same requisitions required of persons of foreign birth."

The amendment was not agreed to.

Mr. COGGSWELL. I move to amend by striking out all after the first word "every," and inserting the words I read this morning, when I gave notice of offering an amendment.

Mr. MORGAN. I would inquire if it is in order to introduce a substitute for a substitute.

The PRESIDENT. It is not.

Mr. MORGAN. The amendment offered by the gentleman from Steele county is substantially a substitute for a substitute.

The PRESIDENT. Substantially it is, but technically it is not. The Chair thinks the gentleman has a right to offer the amendment.

The question was taken on the amendment, and it was rejected.

The question recurring on the substitute—

Mr. COGGSWELL said: I would inquire if the question is divisible, so that we can vote upon each clause separately?

The PRESIDENT. In the opinion of the Chair, it is divisible.

Mr. COGGSWELL. Then I call for a division.

The PRESIDENT. The Chair would suggest that the question should be taken upon the first, second, and third divisions first, and upon the preamble last.

Mr. COGGSWELL. My object was to get a vote upon those three propositions separately.

The question was then put upon the first subdivision, viz: "citizens of the United "States," and it was decided in the negative. (Great laughter.)

The question was then taken upon the second and third subdivisions respectively, and they were severally rejected.

Mr. ALDRICH. Will it be in order to move to go into committee of the Whole to take into consideration the report of the committee upon the Elective Franchise? It seems to me that we had better do so, as we are making a great deal of work for our reporters.

Mr. WILSON. Does not the reporter report in committee of the Whole, as well as in the Convention, and will not the same words amount to as much in one place as in the other?

Mr. DICKERSON. As the substitute has been disposed of, I move to amend the first section by striking out the word "two," and inserting "one," so as to require only one years residence instead of two.

The amendment was not agreed to.

Mr. MORGAN moved to amend section one line twelve, by striking out the word "have," and inserting the words, "produce evidence of having," so that it shall read—

"Shall be a qualified elector until he shall have produced evidence of having declared his intention to become a citizen, &c."

Mr. WILSON. I will not argue that amendment, but I will say that it involves the same idea which was advanced this morning, of requiring the foreigner to produce his certificate that he has declared his intentions to become a citizen of the United States. It declares tacitly that his word is not so good as that of other men.

Mr. BATES. I hope that part of the section will be retained, whether amended or not. Now I know that the oath of the Irish Catholic amounts to but very little. I have seen it tried too often, and I think it but proper that he should produce such evidence as is required by the section.

Mr. MORGAN. There is another provision in this report which provides for the registration of votes and the preparation of poll lists. Now this provision would be peculiarly applicable to the preparation of poll lists, where the applicant should be required to show some evidence of being entitled to vote.

The remedy which is intended to be remedied is the rushing up of men to the polls when they do not know exactly whether they are swearing truly or not. Sometimes they are brought up from whiskey shops when they do not know what they are about. It seems to me that this requirement would remedy that evil in a great measure. Certainly it is requiring no more than to require an oath, and it does not seem to me that it would be imposing a greater hardship. It may be considered insulting, but frequently the requiring of an oath is resented. This is also conformable to the practice in other States. In Pennsylvania, I believe, naturalized citizens are required to produce their

naturalization papers, while this only applies to those who have not been naturalized. It simply requires them to show, at the time of voting, that they are entitled to vote.

Mr. WILSON. I do not know whether there is a Constitutional provision in Pennsylvania. The cases are not at all analagous. In Pennsylvania there are no pre-emptors, while here we are all pre-emptors. By the rule of the General Land Office, every man, when he pre-empts is required to send his declaration of intention to become a citizen of the United States, to the General Land Office at Washington. They require that proof, and will accept nothing else. Now then, if you make the same requirement as a qualification for voting you shut out every foreigner from voting until he can send all over the United States and get another certificate of his declaration of intention. Now that is unjust and unfair, and I do not believe that this Convention will adopt any such clause.

Mr. BATES. I do not want anything but what is fair in this case. But the objection that is urged, arising out of foreigners being required to file their certificates of intention when they pre-empt, amounts to but little because the great mass of foreign population in this City and in St. Paul, never will pre-empt. And furthermore we all know that the great mass of foreign population who are required to take an oath do not understand the nature of an oath, and do not know what they are about, when they do take an oath. I have seen a hundred of them at a time, who did not know what they were about when they went to the polls to vote, because they were drunk. But if they are obliged to present a certificate, there is something to be relied upon.

Mr. WILSON. It is not true what has been stated. I pretend to know something about that. It is not correct that most of foreigners do not know the nature of an oath, and that they will swear falsely as quick as they will truly. It is false, *false*, FALSE. That is all I have to say.

Mr. STANNARD. I hope this provision will be adopted, for it supercedes the necessity of a registry law. I think the gentleman is very much mistaken in regard to the transmission of the original declaration of intention to become a citizen to Washington. The original must be deposited with the clerk of the court before which he makes his declaration, and he takes a certified copy of that declaration, and if it is necessary to forward such an instrument as that to the Commissioner of the General Land Office at Washington, it is only necessary to get a certified copy thereof. As many certified copies can be obtained as may be desired—one for Washington, and one to be used under this requirement.

Mr. MORGAN. There is no difficulty at all about getting certificates. Men frequently lose their copy, and are obliged to get another one. As remarked by the gentleman from Chisago, the original remains on the files of the court before whom the declaration is originally made, and duplicate copies can always be obtained.

Mr. COGGSWELL. I used to be posted upon this matter, at a certain time, and if I now recollect the mode and manner of doing this thing it is this: A foreigner comes, for instance, to the city of New York; he goes before the clerk of some court of record and declares his intention to become a citizen of the United States. He receives from the clerk a certificate of the fact that he has so declared his intentions, and brings it with him to Minnesota. When he gets here, he seeks to pre-empt a tract of land. At the time he does pre-empt, it is indispensably necessary that he shall transmit this certificate, or some other certificate, showing that he has declared his intention to become a citizen of the United States, to the department at Washington before he can obtain a patent for his land. Well, having sent that away, as required by law, it would be necessary for him to send clear back to the city of New York to get another certificate showing the same fact, and in the mean time, perhaps, an election has interposed, and not having a certificate in his pocket, of course he could not vote.

Another objection arises. Not one foreigner in ten knows the fact that he can send back to New York to the clerk of the court in which he filed his original declaration of intention, and get a duplicate copy. The practical operation of this thing would be exceedingly bad.

Mr. HAYDEN. If I understand the amendment, it is, that the person of foreign

birth shall produce evidence of having declared his intention. It does not say that he shall produce the certificate.

Mr. COGGSWELL. That is true. But in furnishing evidence we all understand that the general rule is that the best evidence the nature of the case admits of, must be produced, and of course, the certificate, being the best evidence, must be produced.

Mr. MORGAN. But if the best evidence cannot be produced, a certificate copy would answer.

Mr. KING. I cannot see any use of the amendment. It is the object of the registry law, which this report contemplates being made, to secure the ballot-box against fraud from every quarter. Frauds are not committed by foreigners only, but we have as many native-born citizens as bad as any that come from other countries. And if this is designed to supercede the registry law, I go against it altogether. We want a registry law which will guard against fraud from every quarter, and of every kind.

Mr. WILSON. I understand the gentleman from Minneapolis to say that the preemptor, sending his certificate to the Land Office at Washington, could obtain a certificate from the Land Office to that effect, and that that certificate would be sufficient evidence.

Mr. MORGAN. I said he might have a certified copy.

Mr. WILSON. Now if the gentleman will say, as a lawyer, that any such certificate could be required of the Land Office, I think it strange; and if he says that that certificate so certified to, would be evidence, I think it very strange, for I say, unhesitatingly, that neither would be correct.

Mr. MORGAN. All the difficulties which have been suggested here in relation to the production of certificates, will be found to exist in regard to a man's getting his original naturalization papers. If he sends his certificate of declaration to Washington, he loses his evidence of having filed his declaration; and it is no more an objection in this than it would be in that case.

Mr. FOLSOM. I am disposed not to favor this amendment for the reason that it requires evidence to be given at the polls. Who is to say what kind of evidence is required; whether by certificate, or by the evidence of disinterested parties, who may be cognisant of the fact, that the requirements of the law have been complied with? It appears to me that it would create a perfect Babel at the polls.

Mr. CLEGHORN. In my opinion, the passage of this amendment will be tantamount to an exclusion of the foreign vote. I know that no honest foreigner will vote if he is required to have his certificate in his hand. He will consider it as a declaration that he is not to be believed under oath. Nor can you guard the ballot-box in that way, for in the city of St. Paul, it will be as easy to manufacture false papers of declaration of intention, as it is to manufacture false certificates of election.

Mr. GALBRAITH. I do not see that I have any particular objection to this report as a whole. To have good evidence of a man's right to vote, is certainly right. That evidence is, in such cases, generally the certificate of declaration of intention. It is the requisition which was made in the State from which I came. I submit whether, with this article standing as it now is, it would not be perfectly Constitutional for the Legislature to pass a law requiring every evidence they please? For instance, this section says that "Every white male inhabitant of the age of "twenty-one years and upwards, who shall "have resided in the State six months, &c." Now there is a fact to be proved, and if it is contested, it is perfectly competent for the Legislature to provide what evidence shall be required to prove those facts.

True, by adopting the amendment, some might be disfranchised, but I do not see any great danger of disfranchising men, because I know this to be a fact, that foreigners, becoming citizens of Minnesota, never can get their final naturalization papers, until they produce the certificate of declaration of intention, for that must be made part of the record. So that he must have his papers anyhow, or forever remain not a citizen of the United States, and forever ineligible to all the rights of citizens. He may be a citizen of Minnesota, but not a citizen of the United States. I think this section, though not worded exactly as I could desire, will allow the Legislature to pass such laws, in regard to evidence, as will be proper in regard to the

point of declaration of intention and all other requirements contained in the section.

In the next section we allow the Legislature to provide a general election law. I think we must leave that to the Legislature, because men, under present circumstances, are frequently placed in position that they are disfranchised, who would really have a right to vote under the Constitution, but for lack of some evidence. I see the difficulty that foreigners in the country would be involved in. I know it is hardly ever the case that foreigners coming in, have their certificates, and they hardly ever think of sending for them. Under such circumstances they come to the polls, and if they are challenged, they are excluded, and there is no help for them.

One word in regard to section nine. It says that "No person belonging to any Indian "tribe, or who shall not have assumed the "habits of civilized life, shall ever be a quali- "fied elector." I would ask the committee whether the affirmative of that proposition was not intended? and whether it would not be better to put it in an affirmative form? I suppose the intention is to bestow a right, positively, upon a certain class of persons. I would like it more definite.

The question being upon Mr. MORGAN'S amendment—

Mr. WILSON called for the yeas and nays.

The yeas and nays were ordered, and the question being put it was decided in the negative—yeas 6, nays 37, as follows:

Yeas.—Messrs. Bates, Davis, Hall, Hayden, Morgan, and Mills.—6.

Nays.—Messrs. Aldrich, Anderson, Ayer, Bartholomew, Butler, Cleghorn. Colburn, Coggswell, Cederstam, Coombs, Duley, Dickerson, Eschlie, Folsom, Galbraith, Harding, Hudson, Hanson, Holley, King, Lyle, Mantor, McKune, McClure, Messer, Phelps, Perkins, Putnam, Peckham, Robbins, Stannard, Sheldon, Vaughn, Walker, Watson, Wilson, and the President.—37.

So the amendment was rejected.

Mr. MORGAN. I would ask some member of the committee to explain their views of the application of the following paragraph of the report:

"Or if he shall be an inhabitant of this State at the time of the adoption of this Constitution."

I wish to know what class of voters it refers to and how many classes it includes in itsparticular application, taken in connecation tion with the preceding part of the report?

No one answers, and I will move to strike out those words. In the first clause of this section it is made absolutely necessary that every person, who shall vote, shall have been an inhabitant of the State six months, and an inhabitant of the town, ward or precinct ten days. This proviso says, "if he shall be an "inhabitant of this State at the time of the "adoption of this Constitution." Now the six months clause is general, and this proviso can only apply to a person not a native of this country, and the effect of it is to allow persons, not natives of this country, but who have declared their intentions to become citizens, to vote before they have been in the country two years; and, then, in any election subsequent to the adoption of this Constitution, provided they have been in this State six months. If that is the meaning, I think there is the same objection to their voting for the next eighteen months after the adoption of this Constitution, as there would be at any other time, provided they have not been here two years. I do not exactly see the reason why persons from foreign countries who have been in the Territory six months, should be allowed to vote for the first eighteen months after we become a State, when they would not be allowed to vote, if they had not happend to be here upon the day of the adoption of the Constitution. If they came the day after, the privilege would not be allowed to them.

Mr. WILSON. I do think that those persons who came here when our country was all a frontier and have endured the hardships incident to such a life, should have privileges over others. And that is the ground upon which that provision is based.

Mr. MORGAN. I cannot understand why a man who comes into the Territory the day before the Constitution is adopted, should be placed a year and a half ahead of the man who happens to come in the day after.

The question was then taken and the amendment was not agreed to.

Mr. ALDRICH. I move to amend the same clause by striking out the words "shall "be an inhabitant" and inserting "have his "home and residence in this State."

The amendment was not agreed to.

Mr. PERKINS. I move to amend by striking out "inhabitant of this State" in the same clause, and insert "resident of this State." There is considerable difference between being an inhabitant, and a resident of a State. If that amendment should be adopted, it will cure all the difficulties which are suggested by the gentleman from Saint Anthony.

The amendment was agreed to.

Mr. GALBRAITH. I am not aware that there are many more amendments to be offered to this first section. It has been pretty freely discussed. The last section of this report has something so indefinite about it, that I must call the attention of the Convention to it again. Before it is finally adopted I want to understand what it really means. As it stands, it seems to me to be only declaratory of negative. I presume it was put in here upon the presumption that the word "white" would be stricken out, and then no Indian of half-blood or quarter blood could ever vote. But if the word "white" remains in the Constitution, this section seems to be useless.

Mr. MORGAN. I move to amend section two by striking out the words "shall not be "held answerable for refusing," and inserting "shall not receive."

The section now reads as follows:

"It shall be the duty of the Legislature to provide by law at its first session that lists of the names of qualified electors shall be used at all elections required by this Constitution, and likewise to provide as to the manner in which said lists shall be made out and used, and the presiding officers at said elections shall not be held answerable for refusing the votes of any person whose name is not found on said lists as required by law."

My object is to make the requirement definite. It seems to me that the provision was left in rather a loose way, and would give the presiding officer the right to refuse or not to refuse to receive votes not upon the list. It simply says they "shall not be held answerable for not receiving," but there is no provision that they shall not receive them. The whole object of a registry law would be defeated, if there were not some more stringent provision upon that subject. The object of the registry law is to have the names of all the voters upon the poll lists, and if votes are to be received from those whose names are not there, there is no use of having a poll list at all. My amendment would make a registry of the names necessary before the time of voting. The Legislature may prescribe the manner and the time when the names shall be so entered, and may make provision for entering them even after the opening of the polls, though that is contrary to the usual rule, which always has been, that the presiding officers at the election have no power to insert names in the list.

Mr. PERKINS. I hope the Convention will not refuse to adopt the proposed amendment. It seems to me that the section, if it is intended to mean anything at all, means that the judges of election shall not receive the votes of any whose names are not upon the poll lists. But it does not express that idea, but leaves it to the discretion of the judge to receive the vote or not; it throws the whole power into the hands of the judges of election. To carry out the evident intention, it is necessary to make the change.

The amendment was agreed to.

Mr. WILSON. I would enquire of the Chair if the whole report has been under consideration? Has each section been read?

The PRESIDENT. The Chair has no means of knowing. The committee of the Whole took the report into consideration and reported it back to the Convention without any information whatever of their action upon it.

Mr. GALBRAITH. There seems to be quite a desire to change some of the provisions of this bill, and I think, as we have some other work to do, it will be well to let this report lay over for a day at least.

Mr. HUDSON. Oh, let us finish it.

Mr. GALBRAITH. We had better proceed carefully, but I will not urge the matter.

Mr. HUDSON. I move to strike out section nine. It says that—

"No person belonging to any Indian tribe, or who shall not have assumed the habits of civilized life, shall ever be a qualified elector."

—Now that certainly means nothing, for the first section says that, "every white male inhabitant, &c.," So the voter must be white, and as the Indian is not white, he cannot vote under the first section. What, then, is the use of the ninth section?

Mr. WILSON. In explanation, allow me

to say that that section means nothing in practical effect unless the word "white" be stricken from the Constitution by the proposed vote of the people. If it is stricken out, then this section would be necessary. It was framed with that contingency in view.

Mr. COGGSWELL. I do not wish to offer an amendment, but I wish to say that the report, as it now stands, is exceedingly bungling, indefinite and uncertain; that it is ill in every shape and particular, especially when taken all through as a whole. To my mind it might be bettered in many particulars.

But it appears that we differ as to what those particulars shall be. So far as I am concerned, perhaps I may vote for it with the idea and understanding that I cannot do any better, but I wish it distinctly understood that it does not suit my ideas at all, and that a man with any sagacity, can pick a great many flaws in it.

Mr. MORGAN. I move that the report be laid upon the table.

The motion was agreed to, and the report was laid upon the table.

AMENDMENTS TO THE CONSTITUTION, &C.

On motion of Mr. GALBRAITH, the Convention resolved itself into a committee of the Whole, (Mr. MILLS in the chair) upon the report of the committee on Amendments and revision of the Constitution. (For report see proceedings of August fifth.)

The report was read by clauses for amendments.

SEC. 1. The Legislature may, by a vote of two-thirds of the members of either branch, propose amendments to this Constitution, which proposed amendments shall be published in at least one newspaper in each county of the State, where a newspaper is published, for three months preceding the next election for Representatives to the Assembly, and at such election shall be submitted to the people for their approval or rejection, and if a majority of the votes cast at such election for and against be in favor of such amendments, they shall become part of this Constitution. When more than one amendment shall be submitted at the same election, they shall be voted upon separately.

Mr. ALDRICH moved to strike out the word "Assembly" in the sixth line, and insert the word "Legislature."

The amendment was agreed to.

Mr. MORGAN. I move to strike out the word "either" in the second line, and insert "each." It strikes me as very bad policy to allow one branch of the Legislature to bring the whole people to a vote upon an amendment to this Constitution; that it would be leaving the matter exceedingly loose, and establishing a precedent such as I have never known before. In the State of Massachusetts, where I have been more particularly acquainted, it required a vote of two-thirds of both branches of the Legislature for two consecutive years, before any amendment could be submitted to the people. But here we propose that if two-thirds of one branch of the Legislature proposes an amendment, it shall be submitted to the people, without the concurrence of the other branch, at the very next election.

Mr. HUDSON. As the chairman of the committee which reported this article is not present, I will say, that I find, in looking at this report, that it is different from what I supposed it was, and what was agreed upon in committee. The understanding in committee was, that either branch of the Legislature might propose amendments, and then if they were concurred in by two-thirds of both Houses, this should be submitted to the people.

Mr. COLBURN. I would suggest that the language should be "both branches," instead of "each branch."

Mr. MORGAN. I accept that modification of my amendment.

The amendment as modified, was agreed to.

Mr. GALBRAITH moved to amend by striking out all before the word "in" in the third line, and insert in lieu thereof the words—

"Any amendment or amendments to this Constitution may be proposed by either branch of the Legislature, and if the same shall be agreed to by two-thirds of the members of each House, such proposed amendment or amendments shall be entered upon their journals, and published."

Mr. HUDSON. I would simply remark that the amendment of the gentleman from Scott county, is in effect what was agreed upon in committee, and what I suppose was reported. After the report was prepared, the members of the committee attached their names without looking it over.

The amendment was agreed to.

Mr. GALBRAITH further moved to amend

by inserting after the word "people" in the sixth line, the words—

"At such time and place, and in such manner as the Legislature may direct."

The amendment was agreed to.

SEC. 2. Whenever two-thirds of the members of both branches of the Legislature shall deem it expedient to revise this Constitution, they may call a Convention for that purpose, making by law all needful provisions relative to the same.

Mr. CLEGHORN. I move to strike out section two.

Mr. BALCOMBE. I am in favor of striking out section two, from the fact that I think there are sufficient provisions in the first and in subsequent sections of the report, both as to amendments to this Constitution, and to its revision by a Constitutional Convention. The first section provides for amendments submitted through the Legislature. That will give an opportunity to amend as much as would be required. Then the third section provides that in the year 1870, and every twenty years thereafter, the question of a revision of the Constitution shall be submitted to the people. If the people say "yes," then the Constitution is to be revised. In my opinion, that is sufficiently often for the people to incur the expense, especially when they have an opportunity through the Legislature to get amendments at any time.

Mr. HUDSON. There is a provision in nearly all Constitutions, giving the Legislature the power, at any time, to call a Convention for the revision of the Constitution. In Michigan, Ohio, Illinois, and other States, where wise men have consulted together, they have seen fit to make a provision of this kind, and we were not disposed to take upon ourselves the responsibility of making a different recommendation to this Convention. It may not only be necessary to have such amendments as may be proposed by the Legislature, but it may be necessary to have a revision of the Constitution before 1870, as the country is new, and great changes may occur before that time. This section can do no harm.

Mr. BALCOMBE. I object to giving the Legislature the power to call a Constitutional Convention upon their own motion. I believe that the question should be submitted to the people first in all instances, whether they require a revision of the Constitution. This section gives the Legislature power, at any time, when a two-third vote can be obtained, to call a Constitutional Convention; and as a matter of course, to require the people to bear the expense, which is no small matter—fifty to a hundred thousand dollars. If the people desire a revision, and are willing to bear the expense, they will say so.

The motion was agreed to, and the section was stricken out.

Mr. PERKINS moved to amend the first section, by striking out the words "for and against" in the eighth line.

Mr. HUDSON. I should say to the gentleman that those words have an important meaning in that connection. If you strike them out, the clause will read:

"And if a majority of the votes cast at such election be in favor of such amendments they shall become part of this Constitution."

That would require a majority of all the votes cast, not on this question alone, but at that election. Now one half of the people who voted, might not feel an interest in the amendments and might not vote at all; so that the votes cast in favor of the amendments might not be a majority of the whole number cast at that election, though it might be a large majority of all those cast on that particular subject; yet under such a provision the amendments would be defeated. Now by leaving those words in, you provide against that difficulty, and leave the amendments to stand or fall upon their own merits.

Mr. McCLURE. I move to amend by striking out the whole section. I understand that this first section gives to any legislature the privilege, by a two third vote, to propose amendments to the Constitution, which amendments they may be called to vote upon every year. I am in favor of striking out that section, and leaving in the third section, with some amendments. In my opinion, in about five years the question should be submitted to the people whether they are in favor of a revision of the Constitution; and if they decide in the affirmative, then the Legislature should make provision for calling a Convention. Although I have the utmost confidence in the Legislature, I am disposed to leave it to them only to propose amendments to the Constitution, and have those amendments submitted to the voters. In my judgment there

would be such amendments submitted almost every year. A provision of that kind can be added to the third section, and I therefore move to strike out section one.

The motion was not agreed to.

The amendment offered by Mr. PERKINS was rejected.

Then, on motion of Mr. GALBRAITH, the Committee rose and reported back the report with the amendments, with a recommendation that the amendments be concurred in.

The question was then put upon the amendments recommended by the Committee of the Whole, and they were severally concurred in.

Mr. HARDING moved to amend the first section by striking out the word "people" in the sixth line, and inserting in lieu thereof the word "electors."

The amendment was not agreed to.

Mr. COLBURN. I move that section two be stricken out.

The motion was agreed to.

Mr. SHELDON. I move to amend by inserting the following for section two:

"Whenever two-thirds of the members of both branches of the Legislature shall deem it expedient to revise this Constitution, they shall recommend to the electors of the State to vote at the next election for members of the Legislature, for or against a Convention: and if a majority of the voters at such an election shall have voted for a Convention, the Legislature shall at their next session provide by law for calling the same."

Mr. COLBURN. I do not see the necessity for a section of that kind. It will be observed that section three provides that in the year 1870, and every twenty years thereafter, the question of a revision is to be submitted to the people. I believe if the people adopt this Constitution they will be satisfied, without another Convention, for thirteen years. I think after we provide for submitting the question of a revision every twenty years, that the provision by which the Legislature may submit amendments to the people from time to time, as circumstances may require, is all that is necessary.

Mr. COGGSWELL. So far as I am concerned I am decidedly in favor of the amendment, and I believe that is all that is necessary in regard to this subject of amending the Constitution in any way, shape or manner. The idea of allowing the Legislature to propose amendments, is the Massachusetts plan I believe. I do not regard it as the best plan, whether it originated in Massachusetts or any where else. So far as I am concerned, I am in favor of having a Convention called, and such amendments considered, as the members composing that Convention, see fit to offer. I am in favor of leaving the whole matter in the shape in which the amendment would leave it.

Mr. COLBURN. I think, myself, that it is very proper that the Legislature should be allowed to propose amendments. It may happen that some slight amendment to the Constitution may be necessary. It would not be worth while to call a Constitutional Convention to make such amendment, as it may be one about which there is no great difference of opinion and one which could be easily settled. Some amendments to the Constitution of Massachusetts, have been adopted, upon which there was great unanimity of opinion. They were proposed in the Legislature, passed by two successive Legislatures, and then submitted to the people. By that course they saved the whole expense of a Constitutional Convention.

Then, if after that, the people become satisfied that they want a general revision of the Constitution, and more extensive alterations than can be had through the Legislature, they may call a Convention, and incur the expense of having the work more thoroughly done.

The question recurring on Mr. SHELDON'S amendment—

Mr. COLBURN called for the yeas and nays.

The yeas and nays were not ordered.

The amendment was then adopted.

Mr. SHELDON. I move to amend section third by adding thereto the following:

"But no amendment of this Constitution agreed upon by any Convention assembled in pursuance of this article shall take effect until the same shall have been submitted to the electors of the State and adopted by a majority of those voting thereon."

Mr. KING. I would inform the gentleman that section three does not provide for any amendment of the Constitution. It provides only for a revision of it.

Mr. HUDSON. Section first provides for that.

Mr. SHELDON. I suppose a revision and

an amendment of the Constitution are the same thing, and that a revision shall be submitted to the people before it becomes permanent.

The amendment was agreed to.

Mr. GALBRAITH. I move to amend section one by inserting before the word "amendments" in line eight, the words "amendment or."

The amendment was agreed to.

Mr. PERKINS offered the following substitute for the whole report:

"Any amendment or amendments to this Constitution may be proposed in the Senate and House of Representatives; and if the same shall be agreed to by a majority of the members elected to each of the two Houses, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election of Senators, and shall be published for three months previous to the time of making such choice; and if in the Legislature so next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each House, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the Legislature may prescribe; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the Legislature, voting thereon, such amendment or amendments shall become part of the Constitution.

"At the general election to be held in the year 1870 and in each twentieth year thereafter, and also at such time as the Legislature may by law provide, the question 'Shall there be a Convention to revise the Constitution and amend the same?' shall be decided by the electors qualified to vote for members of the Legislature; and in case a majority of the electors so qualified, voting at such election, shall decide in favor of a Convention for such purpose, the Legislature, at its next session, shall provide by law for the election of delegates to such Convention."

Mr. HUDSON. It will be seen very plainly that it will take some time to secure an amendment to the Constitution in that manner. In the first place the amendment must be proposed, and it must be submitted to the people at the next general election of Senators, which might not be in two years, Senators being elected for two years, and hence it would be a long time before it could be secured.

Mr. PERKINS. I presume Senators will be elected every year. If not, the substitute may be amended so as to bring the matter before the Legislature chosen next after the amendments are proposed.

Mr. WILSON. I would rather see the substitute stand as it is. Then we shall have the action of two Legislatures upon it. This calling Conventions and proposing amendments to the Constitution too hastily is not well. I do not think any thing will be lost by delay.

Mr. MANTOR. I move to amend the substitute, so as to provide for a revision of the Constitution every ten years, instead of twenty.

Mr. COLBURN. I suggest that the vote be first taken upon the adoption of the substitute. If it is rejected, we save the labor of making amendments to it. If it is adopted, we can then make amendments to it.

Mr. MANTOR. I withdraw my amendment.

Mr. WILSON. I believe the substitute provides for a revision every twenty years, and at such other times as the Legislature may by law provide. That obviates the necessity of the amendment proposed by the gentleman from Dodge.

Mr. ALDRICH. It seems to me that it would be well for the mover of the substitute to modify it, so as to strike out the words "next general election of Senators" and insert in lieu thereof, "next election of members of the House of Representatives."

Mr. PERKINS. I accept of the modification suggested.

The substitute was then adopted.

The report was then ordered to be engrossed for a third reading.

OFFICIAL SALARIES.

On motion of Mr. CLEGHORN, the Convention resolved itself into a committee of the Whole (Mr. ROBBINS in the Chair) upon the report of the committee upon official salaries.

The report was read as follows:

"That as many, if not all other reports, in which there is reference made to State officers, have provided for the compensation of the same by leaving it to the Legislature.

"We would therefore merely recommend:

"That all salaries of State officers shall be affixed by the State Legislature at its first session. With this recommendation your committee would respectfully ask that they may be discharged."

Mr. GALBRAITH. I think it is well

enough to allow the first Legislature to fix the salaries of State officers, but I do not see what action can be taken upon this report. What can we act upon; what is there to adopt?

The CHAIRMAN. Amendments will be in order.

Mr. GALBRAITH. There is nothing to amend.

Mr. WILSON offered the following substitute for the whole report:

"SEC. 1. The Legislature shall fix the salary of every officer whose salary is not fixed by this Constitution."

The substitute was adopted.

And then, on motion of Mr. KING, the committee rose and reported the substitute to the Convention, with a recommendation that it be adopted.

Mr. COLBURN. I move that the report be referred to the committee upon Miscellaneous Provisions. It seems hardly necessary to put this as a separate article in the Constitution, containing so little. It may properly be placed in the article containing miscellaneous provisions.

Mr. McCLURE. I am opposed to that. I want to see something put in this Constitution, which has but little in it. (Laughter.)

Mr. DAVIS. I would inquire if it is in the Massachusetts Constitution? (Laughter.)

Mr. WILSON. The committee on Arrangement and Phraseology will put this article where they think proper.

Mr. COLBURN's motion was not agreed to.

The report of the Committee of the Whole was concurred in, and the substitute for the report adopted.

Mr. HARDING moved that the report be ordered to be engrossed for a third reading.

The motion was agreed to.

Mr. HARDING moved (at five o'clock and twenty minutes,) that the Convention adjourn.

Mr. WILSON. Before that motion is put, I wish to give notice of a resolution I intend to offer; and it is this: that the question as to what boundary shall be adopted as the boundaries of the State of Minnesota, shall be submitted to the people as an independent proposition at the same election at which they vote upon this Constitution. I do not intend, when I introduce that resolution, to argue it, and I give this notice that every member may make up his mind so that they can vote without discussion. But if others should argue it, of course I shall do so.

Mr. COGGSWELL. I object to the service of notice, for the reason that it is not in writing. (Laughter.)

And thereupon the Convention adjourned.

TWENTY-FOURTH DAY.

SATURDAY, August 8th, 1857.

The Convention met at 9 o'clock, A. M.

The journal of yesterday was read and approved.

ELECTIVE FRANCHISE.

Mr. SECOMBE moved that the Convention take up for consideration the report of the committee upon the Elective Franchise.

The motion was agreed to, and the report was taken from the table and reported to the Convention for its action.

The question being on the first section—

Mr. KING offered the following substitute for the whole report:

"SEC. 1. Every white male inhabitant of the age of twenty-one years and upwards, who shall have resided in the State six months, and in the town, ward, or precinct, in which he may claim the right to vote, ten days next preceding any election, shall be entitled to vote at the said election;

"*Provided*, He be a citizen of the United States; or,

"*Provided further*, He has resided within the United States two years, and filed his intention of becoming a citizen in conformity with the laws of naturalization of the United States;

"*Provided further*, That a minor, foreign-born, whose parents have been naturalized, shall be deemed an elector at twenty-one.

"SEC. 2. It shall be the duty of the Legislature at its first session to pass a registry law fully adequate in all its parts to preserve the purity of the ballot-box.

"SEC. 3. No person shall be a qualified voter at any election who shall be convicted of treason, felony, illegal voting, or who shall induce others to vote illegally. The Legislature shall have power to restore such persons to civil rights.

"SEC. 4. Residence shall not be impaired by absence on business of this State, or of the United States; but no soldier, seaman, or marine, in the army or navy of the United States, shall be deemed a resident of this State in consequence of being stationed within its limits."

The substitute was not agreed to.

Mr. FOSTER. I move to amend the first section, in line ten, by inserting after the word "Constitution," the words, "or if he be a "civilized person of Indian descent, not a "member of any tribe."

I hope the members of this Convention will reconsider any determination they have heretofore had to exclude so large a class of the present voting population of this Territory from any future exercise of the Elective Franchise. It seems to me as if here was a strange union of opposite extremes to do rank injustice to a large and intelligent class of our population who are quite as well qualified to exercise the right of suffrage as many men upon this floor. I find, on the one hand, those who are actuated by feelings of prejudice against, or distrust of, those called half-breeds; I find those who object to Indians voting from some feeling of natural, so to speak, antagonism; and I find that class uniting with another class, who, upon this floor, proclaim that they particularly are actuated by principle, aside from policy.

When I see the union of the class of prejudice, with the class of principle, I regard it as something remarkable; and I look around to see what can be the reason for such a conjunction of elements. I can understand, perhaps, why those actuated by prejudice should vote against this matter; but why, on the other hand, those who claim to be superior on the score of principle, should do so, is more than I can understand. Sir, they say that the negro, who is far distant from us, and who, locally, does not come in contact with us, must have the right to vote; that it is rank injustice to deprive him of that right, and that humanity, everywhere, should be entitled to the same privileges. But when they have an opportunity to carry out that portion of their faith, an opportunity to award to a large class of our population those rights which they contend belong to humanity, they say: "No, if we cannot do justice to all, "we will not do justice to any." That seems to be the broad position taken upon this floor. I did not expect to see any of those men advance the doctrine promulgated by the old Jesuits—do evil that good may come; the end justifies the means. What is the end which is to justify such means? I have heard it whispered around that if you admit persons of mixed Indian blood to vote you take away the prospect, at some future time, of securing to persons of mixed African blood the same right; that if you place them both in the same category you have a better chance hereafter, to secure the right to mixed African blood. That is the Jesuit maxim—"do evil that good may come." These men will trample down one portion of our population, because another portion cannot get their rights. I am for justice to all humanity, as fast as it can be accomplished, and whenever the opportunity offers. If I cannot do it all at once, I will do it piece-meals, and I am not going to risk a great good by attempting to go to fast. Now here is such an opportunity. No doubt the people are willing and ready to admit those half-breeds of Indian descent, to vote. You find men of the highest culture among that class. In towns below here, you find those men owning large and valuable tracts of country; and even in sight of this Capitol, magnificent residences are owned by men of that class, who are as high-minded as any among the whites. Now, I say that those men professing to act upon principle are not justified in the course they take upon this floor. If you leave out of the Constitution a provision of this kind, you array against us an amount of wealth and influence which it is worth while to calculate upon. Of the class who act from prejudice or policy, I want to know how they can justify themselves before the people for refusing to grant the privilege to that class of our population, who, you admit at once, have the rights of men? You will have to throw yourselves back upon the ground of expediency, thinking that in your future battles for rights, the cause of both together would be stronger than that of one alone.

Now I feel upon this subject, because I think we do an injustice for which there is now a remedy, and because it is bad policy, if we wish our Constitution adopted.

Mr. HAYDEN. I did not intend to make another remark upon this subject, but I must say that if ever I have known a person to raise a man of straw and kick it over himself, that man is my friend across the way, (Mr. FOSTER.) Perhaps I said as much in regard to principle as any other man, and I have

been in favor, from the first, of granting to half-breeds the right to vote.

Mr. FOSTER. I did not refer to that gentleman.

Mr. HAYDEN. I am for equal rights.

Mr. PERKINS. As I happened to be one of the small minority in the Convention that declared themselves in favor of free-suffrage, and as the imputation is cast very freely, this morning, upon us, of being in favor of negro suffrage exclusively, I have to say here, that I think this intense sympathy for half-breeds, and the imputation of exclusiveness, comes with ill grace from men who oppose with all their might the idea of free suffrage being contained in the Constitution of the United States.

While I am in favor of negro suffrage, I am in favor of allowing half-breeds to vote, and I do not know of anybody who takes a position against it. I certainly have not made any such declaration of principle upon this floor. My colleage from Rice county, (Mr. NORTH) was not able to see, and I am not able to see why the mulatto ought not to be entitled to the privilege of the elective franchise as much as the Indian half-breeds—that is, why the blood descending from the first families of Virginia in negro veins, was not as much entitled to representation in the Legislature, or to the elective franchise, as that of the liquor dealers, gamblers, and traders in the veins of the half-breeds of this Territory. Now if anybody can point out the reason why it ought not to be, I will go in for excluding the mulatto, and in favor of the half-breeds.

Mr. MANTOR. I do not know but I am one of those unfortunate men who have had imputations cast upon them, simply because we do not all see exactly alike upon all questions before this Convention.

Now, sir, day before yesterday, under very distressing physical prostration, I stood upon this floor and vindicated equal suffrage. Yesterday the same question was brought before this Convention again, and it was advocated ably by gentlemen upon this floor. The question was tabled last evening, and there our work ended. Yesterday when the subject was under discussion, I found myself once upon this floor voting against a proposition made by my friend from Steele county, (Mr. COGGSWELL); and why did I vote against it? Not simply because the word "Indian," or "half-breed," was inserted in that amendment, but because I saw many objections to it, besides those which grew out of the proposition to give the half-breed the right to vote. And, sir, I cannot but think to-day, that these imputations come with very bad grace from men upon this floor who advocate the rights of a class of men who have roamed over our Territory for a thousand years, and in the next breath put their veto upon the rights of men who happen to come from Africa.

I am one of the unfortunate fifteen or sixteen who stood upon this floor, day before yesterday, and advocated equal suffrage to all, and I want it now and forever distinctly understood, that I am in favor of equal suffrage, and shall vote for it every time. But, until such a proposition can be brought before this Convention in reference to half-breeds as shall meet my candid approbation, and which shall not be liable to objection after objection on other grounds, I shall vote directly against it. I consider that it is my right to do so. Although I am in favor of letting the half-breeds vote, I shall be found voting against any such propositions as were made here yesterday by some gentlemen. These imputations are thrown out for the very reason that some gentlemen stood up here and voted against those propositions yesterday, who the day before stood here and advocated the right of equal suffrage. And I am utterly astonished to see gentlemen who are so directly opposed to free suffrage, stand up here and advocate partial suffrage, and especially to that class of men, who, though their feelings are in unison with ours, yet do not possess that entire white blood which we have in this Convention.

Mr. HUDSON. I am opposed to the amendment, and it is but justice to myself that I explain my position, and give the reasons why I have advocated the principle of universal suffrage. I fully believe in and heartily endorse the doctrine contained in the amendment to strike out the word "white" from this Constitution. I believe the right of suffrage should be extended to all, but when gentlemen who approve that doctrine, and would have it read "every white male inhabitant" come here and ask to modify that doctrine and

allow a part of the colored races to vote, I consider it as heaping injustice upon a certain class that we have already trodden beneath our feet. We say that the descendants of one of those races—the Indian—shall have the right to vote, and we will grant that without submitting it to a vote of the people; and we say that the other—the negro—shall not have the right, but we will submit it to the people. Why this partiality? While I am decidedly in favor of equal suffrage, I am not willing to acknowledge that I act upon any such partial principle.

Mr. MESSER. Since almost all who spoke in favor of equal suffrage when this matter first came before us have seen fit to say a word in explanation, I will make one remark. The first amendment made in committee of the Whole was to strike out the word "white." I offered that amendment, and I did it from principle and because I believed in universal suffrage—not that I had any particular partiality for the negro race or for any other colored race. I planted myself upon the broad platform of human rights.

In regard to the particular matter under consideration, I certainly shall not vote against extending the privilege of voting to the half-breed Indians of this Territory. Now I can see reasons why the half-breeds should have that privilege, over and above, if I may so express myself, the reasons why the half-breed negroes should have the right to vote. I stand upon the broad platform that they should all have the right to vote when they become citizens. There are hundreds of half-breed Indians who are identified with the history of this Territory and who were here years and years before the white men settled here in any numbers, and it seems to me that they should not be deprived of the right of voting here.

Therefore, although, as I said, I have no particular preference for the one over the other—for the Indian half-breed, over the negro half-breed—I shall upon the principle of universal suffrage, vote in favor of the Indian half-breeds. But I desire to see some restrictions placed upon that right which should prevent the frauds which have heretofore been perpetrated under color of that right.

Mr. ROBBINS. Since the discussion of this question commenced it has been my misfortune to be so ill as not to be able to listen to it. I should like to have heard the opinions of every gentleman in this Convention upon this subject. I feel that I have lost much. Equal suffrage, apart from negro or half-breed suffrage, is as dear to me as to any other man, and I would go to as great lengths as any man in giving to every class of colored persons an equal right at the ballot box. I do not believe that color is the true criterion of safeguards to be thrown around our right of elective franchise. Color is a poor criterion by which to judge of a man's intellect. It seems to me that because a man is a mulatto, a negro, an Irishman, or a foreigner, is no reason why he should be excluded from the ballot box. A man should have a certain degree of intelligence before he is permitted to vote. And knowledge is the only ground upon which equal suffrage should be given.

Let us see how this question has been managed from the beginning. This subject was brought up in a caucus meeting of the members of this body, and each man's opinion was asked upon it. I told the caucus that I was in favor of equal suffrage. I told them that the more I thought upon the question the more I thought there was a principle involved, and that the only way to settle the matter to the satisfaction of every one was to leave the word "white" out of the Constitution, and to submit the question to the people, and let them vote to put it in.

I have thought upon this matter a long time, and although I have not had the pleasure of listening to the arguments of gentlemen, I share in the approbrium, if any there is, cast upon those who having expressed their opinion upon the subject, have seen fit to change their minds as to the proper course to be pursued. If there is a principle involved on the one side, there is a principle involved on the other. If it is not a violation of principles to allow the people to vote in the word "white," it is not a violation of principles to allow them to vote out the word "white." Now having thought much upon the subject, I have come to the much abused doctrine of expediency, and I do believe, when a principle is not compromised, men have a right to change. I do not believe that party considerations should be brought here, to govern our action; but, as one gentleman said the other day, our

action here will be taken as the action of a party; and, believing that, we should study the interest of that party, when we do not conflict with principle in so doing. Taking that view of the subject, I believe it is good policy, and indeed the only policy on which we can sustain ourselves before the people—at least in my section of the county—to put the word "white" into the Constitution, and let the people vote it out if they will. And I pledge myself in this Convention, when our Constitution comes before the people, to use my utmost endeavors to have them vote it out.

These are the grounds upon which I have changed my opinion as to the proper course to pursue, and with my position I feel perfectly satisfied.

Mr. BILLINGS. I move to amend the amendment offered by the gentleman from Dakota (Mr. FOSTER) by inserting the words "or African" after the word "Indians" so that it shall read "or if he be a civilized per-"son of Indian or African descent, not a mem-"ber of any tribe."

I have been confined to my room from indisposition for the last two or three days, and have not taken any part in this discussion. I propose to put my views upon this subject in writing and present them to the Convention, and content myself, at this time, with recording my vote. The principles I maintain now are the same as they were when this subject first arose in caucus. I have not changed my views of right, and hence have no views to change as to policy. If a person of color, being civilized, has a right to vote, I care not whether he belongs to an Indian tribe or to the African race. So far as civilization is concerned, the education of the Indian, if he have any, may be quite as well questioned, to my mind, as the education of the African. The little education the African has, is all American. He is American born, and reared among American statesmen, and what he does know of civilization is American civilization. He has, in every view of the case, preeminent right over the Indian who has never taken to himself the habits and customs of the whites. I object in most unqualified terms, that we, as Republicans or Minnesotians, should at this, or any other time, proscribe any man from the full rights of a citizen on account of color, or birth place. I believe that to be anti-Republican, and anti-American, and upon this rock I believe, we as a people are to split. Rather than do that wrong, I would say, were it left to me, let our Constitution be rejected, and let the Republicans of Minnesota of 1857 receive a check from the people, which will learn them, in after time, to study the rights of all, and carry into practice what we have so long argued as principle; which we have set forth in our Bill of Rights, and inscribed upon our seal. Let us be true to the right, and to the age in which we live; true to our former declarations, and the people will be true to us. If the people are not prepared for this, let us prepare them, and let us not ask them to put us forward upon the vantage ground. If the principle is not right, let us change our declaration of rights, and say that all persons are not born with certain inalienable rights; that all are not born free and equal; and let us take from our seal the motto we adopted. Let us be consistent with ourselves, and all the time, and not for one purpose affirm a thing, and for another disaffirm it.

Mr. BALCOMBE. I do not propose to discuss this question, but I rise simply to ask the gentleman if he will not withdraw his amendment. The question has been discussed two days at length—or rather, it has been discussed at length upon his side. Four long, set speeches have been delivered upon that question, and it has probably been presented by the gentleman from Rice county (MR. NORTH) in as good a light as it possibly could be. A vote was taken upon the question, and there were two votes to one against striking out the word "white." Since that time the question has again been raised by those who believe as he does and it was discussed at length a second time, and again the Convention refused to strike out the word "white" by a large majority.

Now I ask the gentleman, whether, under the circumstances, he is determined to crowd this question upon us every day after it has been decided time and again? It does seem to me a little strange, that gentleman who are anxious to proceed with our business with so much speed, should take up so much time with a question which has been settled by

the Convention. Is it supposed that any gentleman will change his vote upon the question? None can suppose that.

Mr. BILLINGS. The gentleman presumes that persons once wrong are always wrong. As I have not been present, I do not know how long the question has been discussed. As I said before, I wish the unanimous consent of the Convention, to give my views to the reporter, and thereby save taking up the time of the Convention in giving my views at length here.

Mr. BALCOMBE. I am perfectly willing to hear a speech upon this or any other question, but I really object to going back half a dozen times and bringing up a question which has been settled. If the gentleman wants to make a speech upon his side other gentlemen will want to reply. Now I appeal to those gentlemen who agree with the gentleman who has offered the amendment, whether they will not desist from pressing this subject upon us time after time, when it has already been twice decided? I beg gentlemen not to thus detain us day after day. If the gentleman will write out his speech, I will vote to have it go upon the record of details, just as though he had delivered it.

Mr. BILLINGS. I never take anything by courtesy. All I ask is a matter of right. If it be not my privilege, I ask it not.

Mr. WILSON. Well, I rise to a question of order, and it is whether that amendment is in order. It is the same question which has been discussed and already decided twice in this Convention.

Mr. COGGSWELL. I would say that I do know, that the gentleman from Fillmore (Mr. BILLINGS) has been confined to his room by illness, and has not had an opportunity to express his views upon this question; and I, for one, am decidedly in favor of allowing every man to express his sentiments upon all and every subject. I never did belong to the gag clan. I want every man to free his mind, and to deliver himself in the best manner he possibly can; and if the gentleman from Fillmore has any views to submit either to his constituents or to this Convention, I am decidedly in favor of hearing them.

It is true, this question has been substantially settled, as stated by the gentleman from Winona. It is true, too, that it has been substantially settled by this Convention, that citizens of the United States shall not have the right to vote. (Laughter.) It is true, too, that it has been settled here, that foreigners shall not vote; and it is true, too, that I stand here in favor of the amendment to the amendment, for the reason that I want somebody to vote, (laughter,) and that I am willing, if we cannot have citizens of the United States vote, that half-breed Indians and negroes shall. I want somebody to vote for certain men to pass laws, to govern and control us—and the half-breeds have controlled us so far, and have done it pretty well—and now I want the negroes to come in and help them. Then I think we shall be perfectly safe. These are the reasons which induce me to go for the amendment to the amendment, although those questions have been settled to the same extent that the amendment to strike out the word "white" has been.

Mr. WILSON. I withdraw my objection.

Mr. BALCOMBE. I withdraw my objection, and at the same time give notice that I shall make a speech upon the subject myself. And I call upon every one of our friends, who have advocated the policy we have adopted, to make speeches also, and let us have a good time over it.

Mr. COLBURN. I do not wish to occupy the time of the Convention. I have been as anxious as any gentleman in this Convention to close our labors at the earliest possible day. Indeed, I have already a resolution before me, which I intended to offer, to close our proceedings upon a particular day. But if we can induce the gentleman from Winona, (Mr. BALCOMBE,) and other gentlemen, who take the same position he does, to come out and put their views and sentiments on this subject, upon the record, I am willing to sit here another month.

Mr. GALBRAITH. Who does not know that my views are upon the record? I assure gentlemen that I am willing to give them my views and put them, with my vote, upon the record from this until doomsday.

The gentleman who has offered this amendment was not here during the debate. I am willing to let him speak, for it is right that he should do so. But while I am in favor of that, I do protest against men raising the same question day after day, and intermina-

ably, after it has been once and twice settled. When men have in sight twelve good things which they can do, and a million good things which they cannot do, I protest, that because they cannot do them all at once, they will refuse to do any.

Mr. COLBURN. I deem it my duty to state that I do not understand that the gentleman from Scott county (Mr. GALBRAITH,) has defined his position upon the amendment introduced by the gentleman from Dakota county. I had reference to that. I did not request him to define his position upon the negro question, for he did that the other day. I wanted his position upon the question raised by the gentleman from Dakota, and I wanted to know how his position upon those two questions correspond. I understand the gentleman's position upon the negro suffrage question to be, that negroes are not qualified to vote, and were not qualified to be raised to a social position equal to the whites.

Mr. GALBRAITH. No such thing; that is another of those contemptible misrepresentations. ("Order;" Order.") It has been stated here, time and again, that I advocated that doctrine. It is not so. I said that gentlemen should be consistent with themselves, and consistent with their own doctrine.

Mr. COLBURN. I do not wish to misrepresent the gentleman from Scott county; but I desire to understand his views upon that question; and if I do misrepresent him, I request him to state his views again. I understood the position of that gentleman to be, that we ought not to elevate the negro by extending to him political privileges, but by extending to him social privileges and rights; that we ought to raise him in social position before we do in a political position. Is that the gentleman's position?

Mr. GALBRAITH. I hope the gentleman will go on and make his speech if he wants to make one, and I will make mine when I get ready.

Mr. COLBURN. The gentleman, then, does not deny that position?

Mr. GALBRAITH. I deny your right to define my position for me. I can define such positions as I desire, and can answer such questions as I please.

Mr. COLBURN. I am sorry to raise any excitement by my remarks. I have defined the gentleman's position as I understood it. I do understand such to be his position. Now, sir, I believe that both the negro and Indian should enjoy the right of suffrage. I believe the negro should be as highly elevated in social position as the Indian. I believe that by extending the right of suffrage to the Indian, you do elevate his social position just as much, and just as fast, and just as effectually, as you do the negro by extending the right of suffrage to him. I believe, if there is any objection to this thing of amalgamation, you will encourage that practice, and extend it just as effectually by extending the right of suffrage to the Indian, as you will by extending it to the negro. The white race will amalgamate with the Indian just as much as it will with the negro, provided the circumstances are the same. My position is this: if we ought not to encourage amalgamation of races, and if elevating them to political positions does encourage it, the gentleman from Scott county should be just as anxious to encourage amalgamation with Indians as with negroes. While the gentleman makes a very strong appeal not to cut off half-breeds because they own property around the Capitol and elsewhere, will he pretend to say that there are not mulattoes—men of respectability, education and talent—who own property here and elsewhere throughout the Territory? There is no argument in favor of the half-breeds, but may be urged in favor of the negroes; and I cannot understand how those who are opposed to extending the right of suffrage to the negroes, can advocate its extension to the Indian. The same objections which are raised against the negroes, can be raised with equal force against the Indians.

Mr. LOWE. I move the previous question.

Mr. McCLURE. I hope it will not be sustained, if the gentleman from Fillmore county (Mr. BILLINGS,) wants to speak.

Mr. BILLINGS. I do not desire to speak to-day. I merely ask the privilege of submitting, in writing, to the reporter, my views upon this question. My object in offering the amendment to the amendment was to get a vote of the Convention upon it, that I might understand what the views of the Convention were. I have no objection to having the vote taken at once upon the amendment, for then I shall have that information.

The previous question was seconded, and the main question ordered to be put.

The question recurring on Mr. BILLINGS' amendment.

Mr. BILLINGS called for the yeas and nays.

The yeas and nays were ordered, and the question being put there were yeas fifteen, nays twenty-eight.

Yeas.—Messrs. Ayer, Billings, Cleghorn, Colburn, Coombs, Hayden, Hudson, Holley, Mantor, Messer, Phelps, Perkins, Putnam, Sheldon, Secombe.—15.

Nays.—Messrs. Aldrich, Bartholemew, Butler, Coggswell, Cederstam, Duley, Dickerson, Eschlie, Foster, Folsom, Galbraith, Harding, Hanson, King, Lyle, Lowe, McCan, McKune, McClure, Morgan, Mills, Murphy, Robbins, Stannard, Vaughn, Watson, Wilson, Mr. President.—28.

So the amendment to the amendment was rejected.

The question recurring upon the amendment offered by Mr. FOSTER.

Mr. CLEGHORN called for the yeas and nays.

The yeas and nays were ordered, and the question being put, there were yeas twenty-seven, nays fourteen, as follows:

Yeas.—Messrs. Aldrich, Ayer, Bartholemew, Billings, Cleghorn, Colburn, Cederstam, Coombs, Duley, Dickerson, Foster, Folsom, Hayden, Harding, Holley, Lyle, Lowe, Mantor, Messer, Morgan, Phelps, Perkins, Putnam, Stannard, Sheldon, Vaughn, Mr. President.—27.

Nays.—Messrs. Butler, Coggswell, Eschlie, Galbraith, Hudson, Hanson, King, McCan, McKune, McClure, Murphy, Secombe, Watson, Wilson.—14.

So the amendment was agreed to.

Mr. SECOMBE. I propose the following substitute for section one, as amended—not intending thereby to change the matter of the of the section, but only the form.

"Sec. 1. Any white male inhabitant, of the age of 21 years and upwards, (excepting persons under guardianship, and persons of unsound mind) who shall have resided in the State six months, and in the town, ward or precinct in which he may claim the right to vote, for ten days next preceding any election, shall be entitled to vote at such election, if he belong to either of the following classes, to-wit:

"1. Citizens of the United States.

"2. Persons who have resided in the United States two years next preceding the election at which they then claim the right to vote.

"3. Persons who shall be residents of the State at the time of the adoption of this Constitution:

Provided always, that no person who is an alien by birth, and not a citizen of the United States, shall be a qualified elector, until he shall have declared his intention to become a citizen in conformity with the laws of the United States on the subject of naturalization."

The object of my amendment is to place the matter in a more definite form. It does not differ materially from the section as it now stands, and I must say with all due deference to the committee who drew up the provision that it took me at least two days to determine in my own mind just what it meant, and what class of persons would be entitled to vote under it. Perhaps my mind is more obtuse than that of others, and perhaps I look upon it in a different light from what others do. My proposition defines the class of persons who are to be entitled to the elective franchise under the third clause, and it can be discovered at a glance who they are. A provision of the Constitution of so great importance, should be put in the best possible language. I think it does not interfere with the provision of the amendment just adopted. If I understand that, it is, that civilized Indians not belonging to any tribe shall have the right to vote. If that is so, the term "alien" as used in the substitute offered by myself does not include such a person. I understand that there may be persons, who, while they are not citizens, are not aliens. They may be some where half way between; and a civilized Indian not belonging to any tribe, while he would not be a citizen of the United States, yet might not be an alien. If however it might be considered that it is not explicit enough, an amendment might be made to except the class of persons meant in the amendment, in terms like the following:

"Except civilized Indians not belonging to any tribe."

I hope a substitute substantially like the one I have offered will be adopted, so as to state specifically the class, who will have the right to vote.

Mr. LOWE. I hope the substitute will be rejected. I think the provision as it now stands is clear enough. If we go into a classification there will be no end to it. It seems to me we have had enough discussion about suffrage, and I hope the Convention will vote down this amendment and all others.

Mr. FOSTER. I would suggest to the gentleman to modify his substitute by insert-

ing after the words "United States" where it first occurs in the first clause the words "civilized persons of Indian descent and not "members of any tribe, excepted."

Mr. SECOMBE. I except the modification suggested by the gentleman from Dakota, as it involves the principle just adopted by the Convention. It will then read—

"*Third*—Persons who shall be residents of the State at the time of the adoption of this Constitution. *Provided*, always, that no person who is an alien by birth, and not a citizen of the United States, (civilized persons of Indian descent, and not members of any tribe excepted) shall be a qualified elector, until he shall have declared his intention to become a citizen of the United States, in conformity with the laws on naturalization."

Mr. COGGSWELL. If I understand the nature of that amendment, it requires that persons of Indian descent shall declare their intention to become citizens of the United States.

Mr. SECOMBE. They are excepted.

Mr. COGGSWELL. Will the Clerk read it again.

The clause was again read.

Mr. COGGSWELL. So far as I am concerned, I am decidedly opposed to half-blood Indians, or half-breeds, or quarter-breeds, or any other kind of breeds voting, unless it is under restrictions which will fully provide against abuses of that right. I do not pretend to say that I am not opposed to allowing full-blooded Indians, who can read and write to vote; but I am opposed to having the matter so arranged in our Constitution that that right and that privilege can be abused. I am satisfied that it will be abused if it is couched in the language of that substitute. I know that in Wisconsin, under a clause substantially like that, the right and privilege has been abused, and I know of no reason why we should not come to the conclusion that the same will be the case here.

I voted against the amendment proposed by the gentleman from Fillmore county (Mr. BILLINGS) in regard to negroes, for the reason that I supposed the general understanding was that there shall be a clause substantially in the shape of a separate proposition, authorizing negroes to vote, provided it is the wish and desire of the people to allow them to do so. I know, also, if those full-blooded civilized Indians, and those half-breeds are allowed to vote, that it is the desire of the people to have restrictions thrown around that right in such a manner as to prevent the abuse of that right—to prevent full-bloooded Indians, who have not adopted the habits and customs of civilized life, and to prevent the full-blooded Indians, whose hands are now reeking with the blood of the white man, from controlling this Territory. I will not vote for any amendment of that character, unless those restrictions are provided for.

The question was taken on Mr. SECOMBE'S substitute, and it was not agreed to.

Mr. HAYDEN. I move that the gentleman from Fillmore county (Mr. BILLINGS) have the privilege of putting his views of this matter upon the record, by handing the same to the reporter in writing.

The motion was agreed to.

Mr. McKUNE moved (at eleven o'clock and thirty minutes) that the Convention adjourn.

The motion was not agreed to.

Mr. ALDRICH. I move to amend the first section by adding thereto the following proviso:

"*Provided*, That no person shall at any time be allowed to vote upon any proposition to impose a tax, or for the expenditure of money, in any town or city, unless he shall within the year next preceding have paid a tax assessed upon property in said town or city, valued at one hundred and fifty dollars."

I wish simply to say that the proviso does not restrict any man in voting at the election of any officer of State, county, city or town. It simply prohibits a person having no property, or property of only a very small amount, from voting to impose a tax upon the property of his fellow-citizens, or for the expenditure of any money raised by taxation. I do not see as any one can find fault with that.

Mr. WILSON. Would it not exclude a poor man from voting for school taxes? A great many who have not property of the amount specified, have children to send to school, and they feel a great interest in that matter. I am not inclined to vote for anything that will exclude any man from voting for school taxes. If our schools were left to be controlled by rich men, we should have no schools.

Mr. ALDRICH. I will modify the amendment, and except school taxes.

Mr. FOSTER. I am opposed to the principle of the whole thing. It looks too much like property qualification, and will make a bad impression. I take it that the aggregate wealth of individuals is the aggregate wealth of the State, and it is really the whole labor and capital of the community that bears the burdens of taxation. The poor man pays his share of the tax; taxes are included by the landlord, in estimating his rents. It is like entries paid in at the custom house. The duty is really paid by the consumer, though paid at the time by the importer. So it is as to taxes upon property. Those who rent a house, or a farm, in reality pay the taxes upon that house or farm. I am opposed to it upon principle, as well as upon policy.

Mr. COLBURN. I hope the amendment will not prevail. It smacks too much of property qualification. I had hoped that nothing of that kind would be incorporated into our Constitution, in any way or form. As that amendment certainly involves the principle of property qualification, I cannot support it.

Mr. ALDRICH. As the amendment seems to meet with great opposition, I will withdraw it.

Mr. CLEGHORN moved to amend the first section by adding the following proviso:

"*Provided*, also, that the Legislature may, at any time, extend by law the right of suffrage to persons not herein enumerated; but no such law shall have any force until it shall have been submitted to the people at some general election, and approved by a majority of all the votes cast at such election."

The amendment was agreed to.

Mr. LOWE. I have an amendment which was suggested by the remarks of the gentleman from Steele county (Mr. COGGSWELL). I move to add to the first section the following provision:

"*Provided*, That the right of persons of Indian descent and of Indians who have assumed the habits of civilized life, to exercise the right of suffrage, shall be exercised under such regulations as the Legislature may, from time to time ordain.'

The objection of the gentleman from Steele County is entitled to much weight. It is notorious that the right of suffrage enjoyed by Indians in this Territory is abused to an extent that requires it to be placed under peculiar regulations. I therefore propose the amendment in order to place the right of suffrage, so far as the Indians are concerned, peculiarly under the control of the Legislature.

The amendment was agreed to.

Mr. CLEGHORN. As provision has now been made in regard to Indian suffrage, I move to strike out section nine.

The amendment was agreed to.

Mr. FOSTER. I would suggest that in the amendment offered by the gentleman from Fillmore County (Mr. CLEGHORN) there is an omission of one or two words, which should be supplied. It was no doubt intended by the mover of that amendment that the law should be "approved by a majority of all the "votes cast *on that subject* at such election." The words "on that subject" are omitted. I move to insert them.

The amendment was agreed to.

The report was then ordered to be engrossed for a third reading.

FINAL ADJOURNMENT.

Mr. COLBURN offered the following resolution:

"*Resolved*, That this Convention adjourn without day, on Thursday, the thirteenth instant."

Mr. FOSTER. I suppose that resolution lies upon the table for the day, under the rule.

The PRESIDENT. If the gentleman discusses it.

Mr. FOSTER. I think we are hardly ready now to fix so early a day as that named in the resolution. If we get away as early as next Saturday, we shall do well. I think we can fix upon the day of adjournment a day or two before we get through, better than we can now.

The resolution was laid over under the rule.

And then on motion of Mr. HARDING, (at twelve o'clock) the Convention then took a recess until half past two.

AFTERNOON SESSION.

The Convention was called to order at half past two o'clock.

JUDICIARY DEPARTMENT.

On motion of Mr. COLBURN, the Convention resolved itself into a committee of the Whole, (Mr. COLBURN in the Chair) upon the report of the committee on the Judiciary Department.

(For report see proceedings of August 5th.)

The report was read by sections for amendment.

"SECTION 1. The court for the trial of impeachments shall be composed of the Senate. The House of Representatives shall have the power of impeaching all civil officers of this State for corrupt conduct in office, or for crimes and misdemeanors; but a majority of all the members elected shall concur in such impeachment. On the trial of an impeachment against the Governor, the Lieutenant Governor shall not act as a member of the court. No judical officer shall exercise his office after he shall have been impeached until his acquittal. Before the trial of an impeachment the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to evidence, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in case of impeachment shall not extent further than to removal from office, or removal from office and disqualification to hold any office of honor, profit or trust, under the State; but the party impeached shall be liable to indictment, trial and punishment according to law."

Mr. McKUNE. I move to strike out section one. The same subject matter is contained in the report of the committee on Impeachment and Removal from Office.

Mr. WILSON. I would remark that this report was prepared before the committee had seen that report. For that reason they came in conflict.

The motion was agreed to.

"SEC. 2. The judicial power of this State both as to the matters of law and equity, shall be invested in a supreme court, circuit courts, probate courts, and in justices of the peace. Municipal courts of limited criminal and civil jurisdiction, may also be established by the Legislature in cities; provided that municipal courts shall not have jurisdiction in their respective municipalities to extend the jurisdiction of circuit courts, in their respective circuits. The judges of the municipal courts shall be elected by the qualified electors of their respective jurisdictions, and for a term not longer than that of the judges of the circuit courts."

Mr. SECOMBE. I move to amend that section by striking out the words "municipal "courts of limited criminal and civil jurisdic- "tion, may also be established by the Legis- "lature; provided, that the municipal courts "shall not have jurisdiction in their respective "municipalities to exceed the jurisdiction of "circuit courts in their respective cities," and insert in lieu thereof, the words:

"And in such other courts of limited, civil and criminal jurisdiction, as the Legislature may from time to time establish; *provided*, that the jurisdiction of no such additional court shall exceed the jurisdiction of the circuit courts in their respective circuits."

Mr. CLEGHORN. I hope the amendment will not prevail. It seems to me that the language used in this section is unexceptionable, and I do not believe it can be improved.

Mr. SECOMBE. The language used is very good for the purpose for which it is used. It is very good language to authorize the establishment of municipal courts, and that alone. If it is desirable to establish, or to authorize the Legislature to establish any other courts than municipal courts, of course it is not the right language. Now I myself am in favor of county courts in some instances. It seems to me that the object of courts is that the people may have speedy justice. I presume there will not be to exceed six or seven circuits in the State—perhaps not so many as that. Consequently each circuit will comprise a number of counties. I do not know how many counties there are in the State, but there are a great many. And it will be provided, either by this article or by law, that there shall be held in each county of the circuit a certain number of court terms. This very report provides that there shall be held in each county of the Territory, two terms of the circuit court each year. Suppose there should be held in each county two terms, it would, from the necessity of the case prevent the holding of more than two terms. Consequently there would be six months intervening between the terms. Now there is a large amount of business in the State, in cases involving a sum which is above the ordinary amount over which a justice of the peace has jurisdiction—between the sums of one and five hundred dollars—and it is very desirable that suits of that nature should be disposed of with speed. Now I would be in favor, under certain circumstances, of authorizing a county to establish a county court which might have terms held once in two or three months, or even once a month, with jury trial, and jurisdiction between one and five hundred dollars, and no appeal from a jury trial.

There are objections raised to the system of County Courts, and there are arguments in favor of it. My object is, if it is the wish of this Convention, that the Legislature may

have power to establish such Courts, if they think it would be beneficial, in addition to those already provided for; and that this Constitution may not limit us merely to Municipal Courts.

The amendment was not agreed to.

"SEC. 3. The Supreme Court shall consist of three Judges, a majority of whom shall constitute a quorum, and a concurrence of two of said Judges shall in all cases be necessary to a decision. The Judges of the Supreme Court shall be elected for the term of nine years."

Mr. HARDING. I move to amend by striking from the last line the word "nine," and insert "six." I am opposed to any man holding office that length of time, without giving the people the opportunity of making a change,

The amendment was not agreed to.

"SEC. 5. The State shall be divided into three districts—such districts shall be formed of contiguous territory, as nearly equal in population as, without dividing a county, the same can be made. One of the Judges of the Supreme Court shall be elected by the qualified electors of each district, and he shall reside therein during his continuance in office."

Mr. SECOMBE. I offer the following substitute for that section:

"SEC. 5. The Judges of the Supreme Court shall be elected by the qualified electors of the State on a general ticket."

I offer it because I think it provides for a better way of electing Judges of the Supreme Court. I do not know of an instance where the Judges of the highest Court are elected in the manner proposed here.

Mr. COGGSWELL. In Illinois.

Mr. HUDSON. And in Michigan.

Mr. SECOMBE. It seems to me that it is not the proper way. These Judges are to sit for the whole State. They are not expected to have any local interest or feeling, and they ought not to have.

The amendment was not agreed to.

"SEC. 13. The State shall be divided by counties into —— Judicial Circuits. A Judge for each Circuit shall be elected by the voters thereof for the term of six years. He shall reside within the Circuit for which he was elected during his continuance in office. The Legislature may, by law, increase the number of Circuits as may become necessary."

Mr. GALBRAITH. The committee have not filled the blank in this section. It is a mere matter of opinion, and without argument at all; I will move to fill the blank with "six." I would suggest that gentlemen look over their different localities and express their opinions upon it, if they differ with me. We were unable, in the committee, to fill it.

The amendment was agreed to.

"SEC. 14. Each Circuit Judge shall hold Court at least twice a year, in every county within his Circuit, organized for judicial purposes. The Judges of the Circuit Court may hold terms for each other, and shall do so when required by law."

Mr. SECOMBE. Though I have been unsuccessful thus far, I will yet move to amend this section. I think it is a bad principle to have the Constitution determine that there shall be held two terms of the Court each year in every organized county. It will put the counties to great expense, when a great many of them will not have inhabitants enough to furnish grand and pettit jurors—certainly not enough for jurors and witnesses both.

Mr. McKUNE. I do not understand that the section means every organized county, but every county organized for judicial purposes. Such a judicial organization may be composed of half a dozen counties.

No amendment being offered, the section was passed by—

"SEC. 15. There shall be elected by the qualified electors of each county organized for judicial purposes one Clerk of the Circuit Court, who shall hold his office for —— years, and until his successor shall be elected and qualified. The Judge of any Circuit Court may fill any vacancy in the office of Clerk until the same cau be filled by election. The County Clerk may be chosen or elected Clerk of the Circuit Court."

Mr. CLEGHORN. I moved that the blank be filled with "two."

The amendment was agreed to.

"SEC. 19. There shall be established in each county organized for judicial purposes a Probate Court—holden by one Judge, elected by the voters of the county—who shall hold his office for the term of two years, and until his successor is elected and qualified. He shall receive such compensation as shall be prescribed by law."

Mr. LYLE. It is not very probable that lawyers will be elected for Probate Judges, but rather a class of men who are qualified for the office of Justice of the Peace. The Probate office is of great importance to the people, and it would take an individual a whole year to qualify himself to perform the duties of that office, after spending his whole time, and being to the expense of purchasing necessary books. And he would only have one

year after that in which to perform his duties. I move to strike out "two" and insert "four." I think if gentlemen will look at the matter, they will come to the conclusion that it is right and proper to make the term longer, in order to give the incumbents a better opportunity to qualify themselves for the station.

Mr. WILSON. I think myself the time should be longer, and I think so, for the reasons mentioned by my friend from Mower county. No lawyer will accept the office, and by the time the incumbents are turned out of office they will have but just become qualified for their duties.

Mr. COGGSWELL. So far as I am concerned, I am decidedly opposed to striking out the word "two," and inserting "four." If, as has been said here, we are to have men elected to that office who know nothing about their duties, I think we should look to the road at the other end, through which, or over which, we can pass them out. Now I have had some little experience in matters of this kind, and I have always found the practical result to be, that if men were elected to that office who had some little smattering of legal knowledge, and who performed their duties well for two years, they are re-elected for two years more; but if they are incompetent for the first two years, they are thrown aside and somebody else is elected in their places. The two year's system has given better satisfaction than the four year's system. I could point out an instance where a man got into that office for four years, who knew as much of probate matters as any of us here, but who, from an inclination not to discharge his duties, became odious to the people. But the people had no remedy, and they were compelled to bear with him 'till the expiration of the four years. If they are any way tractable, of course, they can get some little knowledge of their duties long before the expiration of two years; and if they discharge their duties faithfully they are re-elected, and if they do not, two years is long enough.

Mr. MURPHY. I hope the provision will remain as it is. For the welfare of the widows, I am in favor of allowing it to remain. If a man has the proper qualifications he can learn the duties of the office in less than one year, and if he cannot, two years is as long as he should be kept in office. I have seen many instances where men, elected to the office of Probate Judge, were not fit for their duties, and under this amendment, we could not get rid of them for four years.

The amendment was not agreed to.

"SEC. 23. The Legislature shall have power to vest in the clerks of the supreme and circuit courts, or of such other courts as may be established by the Legislature, authority to grant such orders and do such acts as may be deemed necessary for the furtherance of the administration of justice—but in all cases the powers thus granted shall be specific and determined.

Mr. COGGSWELL. I think it must have been the intention of the committee to have inserted the words "of record" after the word "courts," where it occurs the second time. I move that it be inserted.

Mr. PERKINS. I hope the amendment will not be adopted. It seems to me to be unnecessary, for courts of justices of the peace have no clerks. If the Legislature should see fit to establish other courts, not courts of record, it might be deemed advisable that they should have clerks, and I see no reason why they might not have the same powers in this respect as clerks of courts of record.

Mr. WILSON. I think, by all means it should be "courts of record." Whether there shall be established any other courts or not, I do not want their clerks to have any such powers as are conferred here. The amendment was agreed to.

"SEC. 25. A competent number of Justices of the Peace shall be elected by the electors in the several counties. Their term of office shall be two years, and their powers and duties shall be regulated by law.

Mr. KING. I should like to know how that competent number is to be ascertained?

Mr. WILSON. The Legislature have that matter in charge.

Mr. WATSON. I move to amend by striking out "two" and inserting "three." For the last few years I have lived in a State where justices held their offices five years. I think two years too short a term.

The amendment was not agreed to.

"SEC. 26. There shall be an Attorney General elected by the voters of the State, whose term of office shall be two years, and until his successor is elected and qualified, and whose duties shall be prescribed by law."

Mr. KING. I move to strike out section

six. That provision is embraced in the report on State officers, other than Executive. That report has been considered, and ordered to be engrossed for a third reading.

The motion was agreed to.

"SEC. 28. If any cause shall be pending in the Supreme Court in which any two of the Judges thereof shall be personally interested, the Governor shall appoint competent persons to act as judges during the trial of such cause in the place of the judges thus interested.

Mr. COGGSWELL. There seems to be a little inconsistency in section twenty-eight. Suppose one of the judges should be interested and only one, and then suppose the other two are unable to agree; what is to be done? Now we have another provision making it indispensably necessary that two judges should concur in any decision, otherwise it is not a decision. The contingency might possibly arise where the two judges remaining could not agree. In that case, of course, no decision could be made.

No amendment was offered and the section was passed over.

Mr. FOLSOM. Mr. CHAIRMAN, I have an amendment to offer to section fourteen. I I move to amend, by striking out all after the word "hold," in the first line, and inserting these words: "As many terms of court in "every county organized for judicial purpo- "ses within his circuit as may be ordained by "law;" so that the section will read: "each "circuit judge shall hold as many terms of "court, &c."

My object is to save expense. I live in a county of 4,000 inhabitants, and the people there have never asked for more than one term in the year. They do not desire any more; and there are many other counties that do not require more than one term. Then there will be new counties organized in remote parts of the State, where it would be impossible for the judge to attend twice a year, and where his duties would not be required if he should attend. I remember we had an example of this kind in the State of Wisconsin—in La Point, and other new counties, they were compelled in this way to hold two terms a year; and there were cases there in which the Judge had traveled 150 miles to hold court, and when he got there no court could be convened, because the people did not require it. I hope the Convention will look at this matter before passing upon it. If the people should want more than one session, it will be an easy matter for the Legislature to provide for them. I am satisfied that the people of my county do not desire more than one session in the year.

Mr. COGGSWELL. Mr. CHAIRMAN, I move a substitute for that amendment, by merely inserting after the word "purposes," these words: "Unless otherwise provided "by law."

Mr. FOLSOM. That would be the same in substance.

Mr. SECOMBE. Mr. CHAIRMAN, I do not think the substitute would be the same in substance, exactly. I think some such provision should be made in case of the new counties, and those small counties nominally, but regularly organized for legislative and judicial purposes—some of them having not to exceed thirty votes—such as the county of Anoka, and other counties cut out of the county of Benton, &c. They do not require two terms—not so many as one, in some instances. It seems to me it would be better for the Legislature, or for the judges themselves, to decide how many terms shall be held.

Mr. FOLSOM. I believe Mr. CHAIRMAN, that the Legislature should prescribe the number of terms. There are many counties where they would be unnecessarily compelled to hold two terms, unless otherwise provided by law. It would be a useless expense, and should not be done.

The CHAIRMAN. Does the gentleman from Chisago accept of the substitute?

Mr. FOLSOM. No sir.

The CHAIRMAN. The original amendment proposes to strike out and insert, whilst the substitute proposes only to insert. It is the opinion of the Chair that it could hardly be taken as a substitute.

Mr. COGGSWELL. Mr. CHAIRMAN: If the amendment is adopted, we cannot have a court in any county till the Legislature shall have met and determined the number of terms; whereas, if the substitute is adopted, there will be two terms held in every county, unless otherwise provided by law.

Mr. WILSON. Our present Territorial laws, will of course, remain in force until the organization of the judiciary under the new

Constitution. We do not know, indeed, whether the Constitution will be adopted; and until then, of course, the judges will hold, as at present.

Mr. COGGSWELL. I suppose the gentleman understands that as we have no circuit court now, we shall not have two terms a year until they are authorized.

Mr. WILSON. Mr. CHAIRMAN: The object sought is the same, by each gentleman; and I think the gentleman from Steele county (Mr. COGGSWELL) comes to a correct conclusion. As a general rule, we shall want two terms of the circuit court in each county organized for judicial purposes. There are some counties brought to notice, where the court, probably, will not be held twice. They will be the exceptions, the other cases the rule. These exceptions can be made very readily by the Legislature. There need be no trouble whatever about it, if we accept the amendment of the gentleman from Steele. I think the language, also, is a little better, and prefer it on that account.

Mr. FOLSOM's amendment was rejected.

And then, Mr. COGGSWELL's amendment, inserting after the word "purposes," in the third line, these words: "unless otherwise "provided by law," was adopted.

Mr. HUDSON. Mr. CHAIRMAN: I would like to offer an amendment to section twenty-five, striking out all after the word "counties," in the second line, and inserting "their "term of office, powers and duties shall be "regulated by law," so that the section will read:

"A competent number of Justices of the Peace shall be elected by the electors in the several counties. Their term of office, powers and duties shall be regulated by law."

My object, Mr. CHAIRMAN, is this: I suppose it is not certainly ascertained, yet, what organization we are going to have with respect to county officers, whether the township system is to be adopted, or whether we are to have all as county officers. I am in favor, myself, of the township organization; that is, wherein justices of the peace are elected by townships, each having jurisdiction, of course, all over the county. In the State of Michigan there are four justices in each county, one elected every year, and each holding four years. We might have three justices, with a three years term, electing one every year: and I should be in favor of leaving their powers and duties and their term of office, all regulated by the Legislature.

The amendment was adopted.

Mr. DICKERSON. Mr. CHAIRMAN: I would move to amend the twenty-eighth section in reference to cases where the judges are interested in a cause, by inserting the words, "judge or" before the word "judges," where it occurs in the second, third and fourth lines.

Mr. LOWE. Mr. CHAIRMAN: It seems to me that this would be leaving power very loosely in the hands of the Governor, which is likely to be abused.

Mr. WILSON. Mr. CHAIRMAN: I do not like the wording of this amendment, and I do not think there is any necessity for it. There is, to be sure, the objection suggested some time ago by my friend from Steele county, (Mr. COGGSWELL) but I do not think it very important, from the fact that one of the judges goes out every three years. The probability is there will be no appointment necessary, from the fact, that two judges will most likely act in concert, and the cases where the judges might differ would be anomalous. I would rather the section should remain as it is. And there is this, further, that if more than one of the judges should be interested in any cause, it is very likely there would be a change at the next election.

Mr. SECOMBE. It seems to me, Mr. CHAIRMAN, if there is a necessity for the section at all, these amendments should be adopted. If there was only a chance, I would not provide for it, unless it were necessary. But now, if a party has a suit against a judge, he must wait three years.

Mr. COGGSWELL. Mr. CHAIRMAN: If the section is to be adopted, it should be made operative in all possible cases. I think this section should be something like the following:

"If, in any case pending in the supreme court, any one or more of the judges thereof should be personally interested, the Governor shall appoint some competent person or persons to act in their stead during the trial of the same."

—I think something of that kind would meet every possible contingency, and if the amendment of my friend should not meet with favor, and nothing better should be presented

by any other member, I shall offer what I have read at the proper time.

Mr. SECOMBE. I would suggest a better course than either, that power be given to the Governor to appoint circuit judges to take the place of those supreme court judges, in cases where they are interested.

Mr. DICKERSON. I do not think it necessary that the Governor, should be compelled to appoint from the circuit judges. I think a discretion would be better, for him to appoint whom he pleases.

The amendments by Mr. DICKERSON were adopted.

Mr. MILLS. Mr. CHAIRMAN: I propose to amend section thirteen, by striking out "six," in the third line, and inserting "three." I do this for the reasons submitted by the gentleman from Steele (Mr. COGGSWELL) with reference to the term of the probate judges.

The amendment was rejected.

Mr. GALBRAITH. Mr. CHAIRMAN, the report has passed through so pleasantly that I am almost hesitating about an additional section which I have to offer. It is submitted however, upon consultation with several gentlemen—attorneys of this city and other places—and more than anything else for the purpose of eliciting the opinion of members of the Convention on the subject.

The CHAIRMAN read the section as follows:

"SEC. — The Legislature shall, at its first session, provide by law for the time and manner of electing the Judges of the Supreme and Circuit Courts, provided, that in no case shall any officer be voted for upon the day fixed for the election of said Judges."

I will just remark, Mr. CHAIRMAN, in reference to this matter, that it is desirable perhaps to have such a provision as this. The question was not brought before the committee at all. It has been suggested in conversation by several legal gentlemen; and there are members present who know that the suggestion has come from gentlemen of the bar, whose opinions are entitled to credit and respect. This provision was adopted, and this course pursued in the State of Wisconsin: that the excitements of mere political and party issues should be kept as far as possible from the election of the judges—that the people should elect the Judges, upon their merits as judges—that they should be elected with the view of making them as independent of political parties as possible; and consequently, they should be elected on a day separate from that on which the other officers are elected, whose canvasses necessarily involve grave political issues and create popular excitements. Manifestly, the election of Judges should not be affected by popular excitement, but the people should be left free to choose the men in whom they are to place the issues of life and property. I have thought it proper to offer this amendment, subject, of course, to the amendment of others, being desirous of of eliciting the opinions of members on the subject. The Convention will observe, that in the report, the election of judges is not provided for at all.

Mr. WILSON. Mr. CHAIRMAN, this is a subject which other State Constitutions have made provision for, some in one way, and some in another. I think, myself, the best way is this: that in voting for the judges, the ballots should be separate, and kept in a separate box. That would sufficiently secure the judges' election from the excitement of the general elections, and save the expense of a separate election. There would be a judge's election every two years, and sometimes every year, to fill vacancies. So, I think it would be better to have the separate ticket, than the separate day.

Mr. LOWE. I think the suggestions of the gentleman from Scott County (Mr. GALBRAITH) will be found more plausible than beneficial. It will be remembered by gentlemen, that in New York city, the charter election was fixed on a different day, for the very object suggested by the gentleman from Scott, and it failed entirely. I do not believe it will be possible to separate the election of judges from political considerations, whether they are made on the same day with the general election, or a different day.

Mr. FOSTER. Mr. CHAIRMAN: I have not been here during most of this debate. I presume it might be safely trusted to the lawyers. This, however, is a little in my line also, and I will say that I feel inclined somewhat to the idea of a separate box on the day of the general election. At the same time, as the gentleman from Chisago (Mr. LOWE) has intimated, there may be more plausibility than benefit in it. I am opposed to this drag-

ging the people out to too many elections. In this new country it is hard to get the people out, unless you make a conflagration—a sort of moral volcano—a great popular upheaval, out of it. But around the cities there are always people enough to come out, and they would not tire, if you had three hundred and sixty-five elections in the year. Therefore I think it better not to multiply our days of election. This is my impression.

Mr. GALBRAITH'S amendment was rejected.

On motion of Mr. CLEGHORN, the committee now rose and reported the article and amendments, with a recommendation, that the amendments be adopted.

The question being on the first amendment —to strike out the first section of the article.

Mr. KING, at forty minutes after four o'clock, moved that the Convention adjourn.

The motion was lost.

Mr. SECOMBE. Mr. PRESIDENT: I move that the further consideration of the report be postponed, and that it be made the special order for Monday, at half past two o'clock.

Mr. WILSON. Mr. PRESIDENT: I think we can finish this now. I am opposed to laying over anything when we are prepared to act upon it.

Mr. SECOMBE. I make the motion for this reason. It has not been till within a few hours that any member has seen or heard this report. It was not read when it was reported from the committee, and no one has had the means of knowing about it, until it was brought in from the printers after the recess this day at noon.

Mr. WILSON. It seems to me if we postpone, it will take more time to get through with it than we have consumed already.

Mr. COGGSWELL. Mr. PRESIDENT: I hope the motion will not prevail. I think it is well understood by this body, and the whole of the legal profession in it, that a great deal of deliberation and time have been expended on this report; and, it seems to me, if we are going to accomplish anything, it is high time we were about it. Generally, the more we work at these reports the worse we make them. I do not for my part, feel inclined to tinker on this any more.

The motion to postpone was rejected.

The several amendments reported from the Committee of the Whole were then read and severally concurred in without debate.

Mr. COGGSWELL then offered the following substitute for section twenty-eight:

"If in any case pending in the Supreme Court, any one or more of the Judges thereof shall be personally interested, the Governor shall appoint some competent person or persons to act in their stead during the trial of the same."

Mr. HUDSON. The substitute seems to differ merely in phraseology, from the section as it now stands. I see no difference in the meaning, and the choice is one of words merely.

Mr. WILSON. I think the substitute is in better language than the original.

The substitute was adopted.

Mr. SECOMBE. I now move that the report be laid on the table.

The motion was not agreed to.

The report was then ordered to be engrossed for a third reading.

On motion of Mr. CLEGHORN, (at five o'clock) the Convention adjourned.

TWENTY-FIFTH DAY.

MONDAY, August 10, 1857.

The Convention met at 9 o'clock, A. M.

The journal of Saturday was read and approved.

REPORTS OF COMMITTEES.

Mr. MANTOR, from the Committee on Engrossment, reported back to the Convention, as correctly engrossed, report number fifteen, on Amendments and Revision of the Constitution; also, number sixteen, on Official Salaries.

And then, on motion of Mr. NORTH, the Convention took a recess, until ten and a half o'clock, A. M.

The Convention was called to order at half past ten o'clock.

REPORT OF COMMITTEE.

Mr. STANNARD, from the Committee upon Finance, Taxation, and Public Debt, made the following report, which was read a first and second time, and laid on the table to be printed, viz:

"SEC. 1. The Legislature shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all

property, both real and personal, excepting such only for municipal, educational, literary, scientific, religious, eleemosynary or charitable purposes as may be especially exempted by law.

SEC. 2. The Legislature shall provide for an annual tax sufficient to defray the estimated expenses of the State for each year; and whenever the expenses of any year shall exceed the income, the Legislature shall provide for levying a tax the ensuing year, sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of the ensuing year.

SEC. 3. Every law which imposes, continues or revives a tax shall distinctly state the tax and the object to which it is applied, and it shall not be sufficient to refer to any other law to fix such tax or object.

SEC. 4. The credit of the State shall not be granted to, or in aid of, any person, association or corporation.

SEC. 5. No money shall ever be paid out of the Treasury of thia State except in pursuance of an appropriation by law.

SEC. 6. The State shall never contract any debts for works of internal improvements, or be a party carrying on such worka; except, in such cases when grants of land or other property shall have been made to the State, especially dedicated by the grant to particular works of internal improvements, the State may carry on such particular works, and shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion.

SEC. 7. The State shall never contract any public debt, unless in time of war, to repel invasion, or suppress insurrection; except as in this Constitution provided.

SEC. 8. The money arising from any loan made, or debt or liability contracted, shall be applied to the object specified in the act authorizing such debt or liability, on the re-payment of such debt or liability, and to no other purpose.

SEC. 9. Suitable laws shall be passed by the Legislature for the safe keeping, transfer and disbursment of the public funds; and also, for the publication of the expenses of the State for each fiscal year.

All of which is respectfully submitted.

BOUNDARIES OF THE STATE.

Mr. DAVIS offered the following resolution:

"*Resolved*, That there shall be submitted to the qualified voters of this territory, at the same time this Constitution is submitted to them for their adoption or rejection, the following proposition (or one substantially the same); and if the same shall receive a majority of all the votes cast both for and against it, then the same shall be a part of this Constitution, and go with the same to the Congress of the United States to be acted upon by them as they may see proper, viz:

PROPOSITION NUMBER—.

"That the following alteration of the boundary line mentioned in the act entitled an act to authorize the people of Minnesota to form a Constitution and State Government, preparatory to their admission into the Union, on an equal footing with the original States, approved March 3d, 1857, is desired by the people of said State of Minnesota; and, if the same shall be aasented and agreed to hy the Congress of the United States, then the aame shall be and forever remain obligatory upon the State of Minnesota, viz: Beginning at the middle of the main channel of the Missouri river, at the point where the forty-sixth parallel of latitude crossea the same; thence down the middle of the main channel of said Missouri river to the western boundary of the State of Iowa, at a point opposite the mouth of the main channel of the Big Sioux river; thence up the middle of the main channel of said Big Sioux river, to the north-west corner of the State of Iowa; thence east along the northern boundary of said State, to the main channel of the Mississippi river; thence up the main channel of the Miasssissippi river and following the boundary line of the State of Wisconsin, until it is intersected by the parallel of forty-six degrees north latitude; thence west along said parallel of forty-six degrees, until said parallel intersects the middle of the main channel of the Missouri river at the point of beginning."

Mr. DAVIS said: Mr. PRESIDENT, in the few remarks I shall make in support of the resolution I have just offered, I do not propose going into a discussion of the merits of an east and west line over a different, or north and south line. The relative merits of the two lines have already been pretty thoroughly discussed, at the time this Convention adopted the line proposed by Congress. But, Mr. PRESIDENT, I cannot help but express a hope that the resolution referred to will pass, for the reason that I believe it but doing an act of justice to a certain portion of this Territory and to a large number of citizens who are in favor of a different line from that which has been prescribed by Congress in the Enabling Act, and which we have accepted. I deny, in the first place, that Congress has the right to prescribe the boundaries of any new State coming into the Union, because it is a matter which concerns the citizens of the State or Territory, and them alone. The Congress of the United States have, in the present instance, defined our boundaries, but we were not bound to accept them. It is true that, as a matter of policy and expediency, we have accepted them in

full. But it was a mere proposition made by them to us, which we might have accepted or refused. Now, as a matter of expediency, as a matter of policy, and as a matter of justice to a large number of inhabitants of this Territory, I hope this resolution will pass. I am, to a certain extent, in favor of Squatter Sovereignty. I think on this question of boundary, a question of such importance to them, the citizens of this State should be heard, and should have an opportunity to express their preference and to make their wishes known; and if this proposition should receive the vote of a majority of the voters of this Territory, it will go before Congress as a simple memorial, which they may accept or reject as they think proper. It will not prejudice our chances for admission in the least.

In my section of the Territory, there is an intense feeling and excitement upon this one question. They have called public meetings; they have passed resolutions; and they have declared that no Constitution coming from this body or any other body, which does not either give them an east and west line, or give them an opportunity to express their views and preference as to the line, shall receive their support; but that, on the contrary, they will, without distinction of party, go against it. To show the members of this Convention something of that sentiment, I will read an article from the St. Peter *Free Press*, of the date of July 29th:

"What we ask is, that this matter shall be *submitted to a vote of the people, as a separate question.*

All we ask is, 'An open field, and a fair fight.'

"Give us this, and we are content. Without this, we will not be. And we tell the Convention now beforehand that if any other course be adopted—or if a north and south line boundary be incorporated into the Constitution, *we will fight it to the death*—we care not how good the Constitution may be, in other respects. In this, we know we but speak the wishes and determination of the mass of our citizens in Southern Minnesota, without regard to party. As a Republican paper, representing the interests and wishes of the Republicans of this region, we tell our Republican delegates, no matter who they may be, that if you attempt to force upon us this line contrary to our known and expressed wishes, *we will not submit to it.* We will make common cause with any party to defeat those Republicans who attempt it. If, gentlemen, you desire to ruin yourselves and our party for the present, adopt a north and south line. If not, then adopt our suggestion, and *let the People* have a fair chance to express their choice in the matter.

"That much we demand; and will have it, or fight."

I know that the sentiments of that article are but the general sentiments in that portion of the Territory, in which I reside—not only in my county, but in two or three adjoining counties. Meetings have been held by Democrats and Republicans, without distinction of party, and this has been the universal sentiment expressed in those meetings. I hold in my hand resolutions passed at a public meeting of Republicans, held in St. Peter on the third day of August; at which meeting were assembled at least three or four hundred people. The resolutions are as follows:

"*Whereas*, The citizens of the Territory of Minnesota, 'by an Enabling Act of Congress,' are endeavoring to form a Constitution by which they may be admitted into the Federal Union as a State, with equal rights and privileges with the other sister members of the Confederacy; and,

"*Whereas*, Under the call for framing a Constitution and defining our boundaries as a future State, delegates have been chosen throughout the Territory, and are now sitting at St. Paul for the ostensible purpose of framing a Constitution which shall be acceptable to the majority of the people in the Territory; and,

"*Whereas*, The present crisis in our political affairs demands energetic and philanthropic action on the part of the people, in order to thwart the despotic machinations of the Democratic party, which, in our opinion, judging from former precedents, is endeavoring to impose upon us a Constitution embracing doctrines and sentiments repugnant and antagonistical to the fundamental and well established principles of the Federal Constitution, and inimical and dangerous to our best interests and welfare as a State; and,

"*Whereas*, We believe that the true policy and general interests of the people of the Territory demand the establishment of an east and west boundary line; therefore, as an expression of the feelings of this Republican body,

"*Resolved*, That we recognize the Republican organization at St. Paul as the legal branch of the Constitutional Convention, and endorse their action, thus far in the premises, as in accordance with the principles and tenets of the Republican party.

"*Resolved*, That we deem it for the interests of this Territory that it be divided by an east and west boundary line, and our delegates in the Constitutional Convention are hereby requested and instructed to use all fair and honorable means to embody in the Constitution such a boundary line, or submit the same to a vote of the people as a separate question."

Mr. PRESIDENT, I feel anxious to have this resolution passed, for I know it represents the wishes of a large portion of the people of Southern Minnesota, aside from the particular county which I represent. I have received numerous letters on this subject from people residing in my section of the country; and I have seen gentlemen, both Democrats and Republicans, and they *all* say that if this Convention will give them the opportunity to express their wishes in regard to the boundary line, they will support the Constitution to a man, without distinction of party; and if they are not so permitted to express their wishes, they will oppose it. To show something of the feeling which pervades the community, I will read an extract from a letter written from St. Peter:

"ST. PETER, Aug. 4, 1857.

"FRIEND DAVIS,—I am very sorry to see such a dispoaition to *back down* from our position in favor of the east and west line. *It will not do.* We supposed, of course, that there was to be no question about it among our folks. How can we do else than adopt it, after the position we took upon it last winter? We cannot do it, and if we do the people will not support it. The feeling here is becoming intense upon the subject. All parties are ready to unite in favor of that Constitution which will give us that line, or at least leave it to a vote of the people. It is bad, but so it is; and this *must* be done, or we are used up."

I have received other letters, but I cannot now read them. All I ask, and all that any from that portion of the Territory ask, is, that this question shall be submitted to a vote of the people. Give us that and we can go into Nicollet county, and into Le Sueur county, and obtain nearly every vote in favor of this Constitution; while without it, I assure this Convention that our Constitution will receive but a very few votes. For my own part, I will stand up for it; but if I go home without such a provision, I know what prejudices I shall have to encounter, and I consider it hopeless to undertake to overcome that prejudice, and to obtain the votes of the people in favor of our Constitution. Again, Mr. PRESIDENT, let me say that I hope this resolution may pass, for while it gives that portion of our people who desire an east and west division line an opportunity to express their preference, it secures their support for our Constitution, and thus enhances the chances for our success.

The PRESIDENT. The resolution having given rise to discussion, will be laid over one day under the rules.

Mr. COGGSWELL. I move that the rules be so far suspended as to allow this resolution to be considered now.

The motion was not agreed to, (two-thirds not voting in favor thereof.)

Mr. CLEGHORN. I move that this resolution be printed for the use of members.

Mr. COGGSWELL. I hope the motion will not prevail, for the reason that I think—and all gentlemen will agree with me, considering the present state of our printing—it will be at least three days before it will be laid upon our desks; and I hope that before that time has elapsed, we shall be able to complete our labors, and go back to our constituents. It seems to me to be a resolution which can be easily understood. It is simply a proposition to submit the boundary questions to the people, and allow them to decide it for themselves. It is not like a long report involving a great many questions, and a great many issues. It is a simple proposition which can be understood the very moment it is read.

Mr. CLEGHORN. I withdraw my motion.

A COMPROMISE PROPOSED.

Mr. GALBRAITH submitted the following resolution:

"*Whereas*, The persons who were elected by the people of this Territory to represent them in a Constitutional Convention, having met at this Capitol on the day appointed by law for such meeting, and having disagreed upou some questions which aroae in the course of forming a temporary organization, separated and formed two distinct Conventions, in numbers nearly equal, and are now forming two separate and distinct Constitutions, to be presented to the people; and,

"*Whereas*, Proceedings so extraordiuary in their character will have a tendency to injure the reputation of our people—to lessen the confidence of the other States iu our integrity, stability and patriotism, and place us in a false position before the world; therefore,

"*Resolved*, That a committee of five be appointed by the President of this Convention to confer with a committee of an equal number, if appointed, of the duly elected members of that portion of them who are acting separately from us; and that it shall be the duty of such committee to consider and agree upon, if practicable, and report some plan by which the two bodies can unite upon a single Constitution to be submitted to the people.

The resolution was unanimously adopted.

The PRESIDENT subsequently appointed as such committee, Messrs. GALBRAITH, MCCLURE, STANNARD, ALDRICH, and WILSON.

And then, on motion of Mr. NORTH, (at 12 o'clock,) the Convention took a recess until half-past two o'clock.

AFTERNOON SESSION.

The Convention was called to order at half-past two o'clock.

FINAL ADJOURNMENT.

The following resolution coming up in the regular order of business, viz:

"*Resolved*, That the Convention adjourn without day on Thursday, the thirteenth instant."

Mr. COLBURN said: Since I introduced that resolution on Saturday, matters have taken a somewhat different turn from what was anticipated, and I therefore move to lay the resolution upon the table.

The motion was agreed to.

Mr. COGGSWELL. I would inquire what became of the resolution I introduced the other day, in regard to submitting the question of negro suffrage to the people?

The PRESIDENT. The Chair would inform the gentleman that it was referred to the committee upon the Schedule.

SEAL AND COAT OF ARMS.

On motion of Mr. NORTH, the Convention resolved itself into a committee of the Whole, (Mr. COGGSWELL in the chair) upon report number seventeen, on the state seal and coat of arms.

The report was read as follows:

"Your committee would report that they have taken the subject that devolved upon them into consideration, and have procured a design for a seal and coat of arms, from a competent person, and would recommend the adoption of the same. For a more particular knowledge of the device, your committee would refer to the design itself which accompanies this report; but would say in general that it represents a waterfall, (supposed to be that of Minne-ha-ha) within a shield. This part of the device is intended to symbolize the idea of water, for the amount and varied forms of which Minnesota is distinguished above any other part of our country, and probably above any other part of the world. In addition, is represented the figure an Indian, with his face turned towards the setting sun, and with his tomahawk and bow and arrows at his feet. Opposite the Indian is the figure of a white man, with a sheaf of wheat and some of the implements of agriculture at his feet. The Indian is represented as asking the white man, by an imploring gesture, whither he shall go, and the white man is responding by pointing to the implements of agriculture, as indicating that he must now assume the habits of civilized life. In one corner of the field appears a distant view of Lake Superior, with a ship in full sail. In another is a view of a river, (which may be supposed to be the Minnesota), running to the westward, with a steamboat ascending its stream. In rear of the shield and waterfall three pine trees are placed, which are typical of the three great pine regions—the Saint Croix, the Mississippi, and Lake Superior.

"For a motto, to accompany the words, "State of Minnesota, A. D., 1857," which are placed upon the upper rim of the seal, only two phrases have suggested themselves to your committee as suitable. One is the expression from one of the Latin poets, "*Fulget intaminatis honoribus*," which may be thus translated, "She, or it, (Minnesota) shines or is refulgent with untarnished honors. This would be more significant and appropriate than most of the Latin mottoes placed upon the shields of the States; but the one the committee have placed upon the design accompanying the report, and which they recommend for adoption, is taken from a celebrated speech of one of the greatest of our orators, and which, as giving expression to the two great ideas which have always swayed the American mind, and always must sway it, they think well worthy to be forever linked with the fortunes and memory of the State of Minnesota—"*Liberty and Union, now and forever.*"

"The committee would remark that the principal feature of the seal, that of the waterfall, has been suggested to them by a number of the members of the Convention. For the accessory features of the seal, they are indebted in great part to the suggestion of an artist and designer of this city, to whom they are happy, on this occasion to acknowledge their obligations, Mr. R. Ormsby Sweeney."

Mr. NORTH. I move to strike out from the motto, the words, "*now and forever.*" It seems to me that those words do not add anything to the force of the motto. The words "Liberty and Union" contain all the idea there is there; and if that motto is perpetual, it exists "now and forever." In a motto, brevity is desirable. A long motto, or a motto that contains the idea that it is a part of a speech, becomes hacknied, and does not contain the idea with that brevity and terseness which should characterize it. And I am not sure that a better motto could not be found, if we had time to look for one.

The PRESIDENT here presented to the Convention the design of the seal which accompanied the report.

Mr. BILLINGS. I hope the motion will prevail. Being one of the committee that made the report, I did not feel like amending my own report, though I am decidedly in favor of that amendment. "Liberty and Union" now, and we can tell about the future when that becomes the present.

The amendment was agreed to.

And then, on motion of Mr. NORTH, the committee rose and reported back to the Convention the report with the amendment, with a recommendation that the amendment be concurred in.

The amendment was concurred in.

Mr. HARDING. I move that the report be referred to the committee on Engrossment.

Mr. WILSON. I hope we shall not be hasty about this matter. I would like to see this report laid upon the table for a few days, for the reason that a great many persons in the city feel a great interest in this matter, and I do not know but what we can improve it by allowing it to lay over for a few days. It certainly can do no harm, and we can pass it in a few moments, at any future time. This is something which we are not all, probably qualified to criticise. I certainly am not, and I would like to obtain the opinions of some gentleman of better taste than my own, upon such a matter as this. I move that it be laid on the table.

The motion was agreed to.

BOUNDARIES OF THE STATE.

Mr. COGGSWELL. I move that the rules of Convention be so far suspended as to allow the resolution offered this morning by the gentlemen from Nicollet, (Mr. DAVIS) to be taken up and considered at this time.

The motion was agreed to (two-thirds voting in favor thereof.

Mr. NORTH. I would suggest that it might be well to go into committee of the Whole upon that resolution. There may be considerable discussion upon it, and in order to give an opportunity for a free expression of sentiment upon it, I move that the Convention resolve itself into a committee of the Whole for the consideration of that resolution.

The motion was agreed to, and the Convention accordingly resolved itself into a committee of the Whole (Mr. WATSON in the Chair) on said resolution.

The resolution was read. (See report of this morning's proceedings.

Mr. COGGSWELL. If I were to consult my own feelings at the present time, I should make no remarks upon this resolution, for the reason that my physical health is such as to incline me to remain quiet. But I feel that it is my duty, representing as I do a constituency who, I know, are deeply interested in this question—to say a few words. In the outset I am willing to acknowledge that I have fears and strong fears that this resolution may not pass this Convention; but I will hope that those fears may prove to be unfounded. I know, Mr. Chairman, that there is more anxiety felt in regard to the matter set forth in that resolution, than there is in regard to this question of negro suffrage—a question which we have unanimously agreed shall be submitted to the people in some way, shape or manner. I am satisfied also that there is more intense feeling existing upon this question in certain localities than there is in regard to many other matters and subjects which have been adopted or rejected with an extraordinary degree of feeling in this Convention. There is a portion of this Territory running along the valley of the Minnesota river, and between Minnesota river and Strait river which is well settled, and there are counties there containing from four to eight thousand inhabitants, who are deeply interested in this question. It is my duty to represent their views and feelings in this matter as well as my feeble abilities will permit. I am receiving letters every day in regard to this east and west line, from individuals in that section of the Territory; and every newspaper that comes from that quarter, brings us the tidings of public meetings held in certain localities, for the purpose of taking into consideration this question, and of instructing their representatives thereon, in this Convention. It seems to me that we ought not to turn a deaf ear to the petitions of that portion of our Territory and to say to them that their voice shall not be heard in this body.

My colleague from Nicollet (Mr. DAVIS) has read some resolutions which were passed at a large meeting at St. Peter, and he has also read a letter which he received from a gentleman of high standing in that section of the

country; all going to show that there is an intense feeling there in regard to this subject; and showing that that feeling is paramount to all other feelings in regard to matters before this Convention; that this east and west line is *the* question, and the only question which seems to enter into their feeling and their consideration; that unless this Convention shall allow their voice to be heard in some way, shape or manner, they will irrespective of party lines, party ties, and party obligations, vote against our Constitution.

Now it seems to me that when men go to that extent—men who are as strong partisans as we are to say the least of it—we can come to no other conclusion than that their feelings must border upon that of intense excitement. They do not desire that this Convention shall place itself in an attitude that would place the fruits of our labors in jeopardy. By no means. All they ask is that this proposition shall be submitted as a separate proposition, so that they can vote either for or against it; so that their feelings may not be smothered, and stifled, but may have a fair chance to express themselves through the ballot box. It seems to me that if we are Republicans, if we are men who believe in the power and capacity of the people to govern and control themselves, if we believe that the people have not only the right, but the capacity to decide all these questions for themselves, there should be no hesitation in our minds in regard to the propriety of submitting this question as a separate proposition.

And mark you, gentlemen, I say nothing in regard to the merits of the question, for the reason that that is a matter which I believe the people will discuss when the question is properly brought before them. If we are Republicans, if we believe in this doctrine of popular sovereignty—which we all profess to believe in—we shall have no hesitancy, it seems to me, in submitting it as a separate question to the people. I know that unless it is submitted there is a large majority of our voters—men who belong to both the Republican and Democratic parties—will take some course and resort to some measures, which will give them a chance to express their views and sentiments in regard to this question. I know too, that if you undertake to silence that voice, and stifle that sentiment, the Constitution we are about to submit to the people, will not receive that support which it otherwise would. Now if it were proposed to engraft this into the Constitution and make the result of this depend upon the fate of the Constitution, I certainly would not support it. But no such thing is asked. All they ask is the privilege of expressing their sentiments through the ballot box.

If it should so happen that that sentiment should be the prevailing one, they ask that that wish may go to Congress, that Congress may take it into consideration and give it such weight as they think proper. Even though a majority of the people of this Territory should vote in favor of an east and west line, they do not pretend to say that Congress would grant their prayer, and respect their choice and preference; but they do say that there is a strong probability, to say the least of it, that Congress would take it into consideration, and give it more consideration than they would, had not that wish and preference been expressed. Now I say, when we take into consideration the rights of that section of the Territory, and our duties here as representative members, it seems to me that there is no alternative left us but to respect those rights, and to say to them that they shall have a chance to express their sentiments through the ballot box. When we take into consideration, too, the strong desire we have that our Constitution shall be adopted, and when we take into consideration the fact that if this question is submitted to the people as a separate question, that whole country will come up to a man and vote for our Constitution, it seems to me that it is a matter of policy for us to take that course; and when we connect that policy with a matter of right, it makes that claim doubly strong. When we consider the fact that such a course does not jeopardise the Constitution, nor the admission of Minnesota into the Union as a State, there can be no sound reason, or substantial objection to submitting this as a separate proposition to the people. And I hope, before this Convention shall vote that that class of our population shall not be heard, that they will take into consideration that glorious doctrine of popular sovereignty which they will trample upon by so doing. I hope, too, they will take into consideration the fact that they are

trampling upon the rights of a large portion of our citizens who are just as much interested in the prosperity, growth and future population of our Territory, as we are. They are just as good Republicans as we are; just as good Democrats as can be found in the Territory, and men who have just as intense a desire to see Minnesota prosper, as we have.

I do not, Mr. CHAIRMAN, propose to go into an argument for the purpose of showing that an east and west line is better than a north and south line. That is a question which will properly come before the people when this is submitted as a separate proposition. But upon this question of the propriety of submitting it, I do hope we shall be in a sufficient majority to carry it through this Convention; and I should like to see it unanimously carried, for the reason that it is carrying out a Republican principle, and carrying out a Democratic principle. It is giving to a large portion of our citizens the right to express their views and sentiments, in regard to a matter in which they feel intensely interested, at the ballot box. If any member can have a serious objection, or any kind of objection, I hope he will state it; and if he has a better proposition than the one which has been presented, I hope he will bring it forward, and I shall be ready to sustain it.

If there is nothing more to be said on this matter, I move that the committee rise and report the resolution to the Convention with a recommendation that it be concurred in.

Mr. STANNARD. I have an amendment to offer to that motion. It is that the committee rise and recommend that the resolution be laid over until to-morrow. My colleague (Mr. LOWE) who voted this morning to suspend the rules for the purpose of taking up this resolution, is now absent, and I desire that he shall have an opportunity to speak upon it.

Mr. WILSON. It is well known that I am very favorable towards this resolution, and I shall do what I can to procure its passage, as I have done for everything of a similar sort which has been presented to the Convention. As is well known, the county in which I reside is almost unanimously in favor of such a line as is proposed here. The county of Wabashaw, is, I think almost two thirds in favor of the north and south line proposed in the Enabling Act. My colleagues from Wabashaw are not present to-day. For that reason, to give them an opportunity to be heard, I desire to have the resolution laid over until they are here, and then I shall take the responsibility of voting and working against a part of my constituency. I rather not do it while my colleagues are absent.

Mr. COGGSWELL. I withdraw my motion.

Mr. MANTOR. Whenever this proposition has come before this body I have expressed my disposition and desire to have an east and west line. But I am placed to-day very much in the position of the gentleman from Winona (Mr. WILSON). I am here the representative of one more county than he—Goodhue, Dodge and Freeborn—and I find that a portion of my colleagues are not here to-day. The representatives living in Goodhue County may possibly oppose this resolution. Yourself, Mr. Chairman (Mr. WATSON in the Chair) is from a county which, were I to express my candid opinion, is in favor of an east and west line. But Dodge County, I know, is in favor, to a man, of an east and west line, and they will expect me to support this proposition. And I see no other or better time to express our wish and desire than the present. And allow me to say here, that while the gentleman who introduced this resolution has been importuned by letters on this subject; and while his constituents have through their letters, their public meetings, and their press, disclaimed their desire of the line marked out by the Enabling Act, I also have received numerous letters, irrespective of party, praying that that line would not be adopted by this Convention. Men of all all parties request that the voice of the people may be heard upon this question. Now sir, while we will undoubtedly submit another question of vital importance to the people, for their decision, I can see no good reason why, with the same propriety, we might not also submit this question. Let them have the opportunity to cast their vote upon the subject, and they will be satisfied. Then we shall have cleaned our skirts. I hope however the resolution will be laid over for the day, and until my colleagues shall all be present.

Mr. COLBURN. Mr. CHAIRMAN: It will

be remembered, that when this question of boundary came before the Convention in the earlier part of the session, and the question arose as to whether the boundary prescribed in the Enabling Act should be the boundary in the Constitution, or whether it should be an east and west line, I expressed myself decidedly in favor of the line fixed by Congress; not because I was individually in favor of that line—for I think I stated I had but little choice between them—and in my estimation there is but little choice between them—but then I was in favor of the boundary proposed by Congress, for the reason as I believed, that if any other should be placed in the Constitution, Congress would refuse to admit us as a State into the Union, or at least reject or delay us for a time. But this resolution, as I understand it, provides that this question shall be submitted to the people as a separate and distinct question; that by it the people shall have an opportunity of expressing their preference between the two lines; and if a majority prefer an east and west line, then the resolution goes before Congress in the shape of a memorial, praying for that line rather than the one defined in the Constitution.

Now I can see no serious objection to adopting this course of allowing the people to express their wishes and memoralize Congress upon the subject; and as I can see nothing in it that can embarass the action of Congress upon the admission of Minnesota into the Union, I shall support this resolution; and I do so for the purpose of giving the people an opportunity of exprressing their preference. If a majority should be favorable to an east and west line, I can see no reason why Congress should not look into it; and if they should do so, and see fit to make the change, I for one shall find no fault—if a majority desire an east and west line, and Congress shall see fit to gratify that desire, I shall not object. Left as I am in the southern portion of the Territory, it makes but very little difference to me, or to the people of our county, who go some one way and some the other on this question.

With this expression of opinion, I certainly can see no objection to submitting this matter as a separate proposition to the people, and shall support the resolution.

Mr. KING. Mr. CHAIRMAN: I hope the resolution will be laid over. I wish to offer an amendment extending the line a little further north, so as to give us an outlet to Lake Superior; and if we cannot do this in any other way, I would make it a jog as they did in Pennsylvania.

Mr. FOSTER. Mr. CHAIRMAN: I think myself this had better be laid over, so that every gentleman may have a fair opportunity of expressing his opinion; and then, I should like to see the question discussed by a full Convention.

I see some practical difficulties in the way of our friends who are in favor of an east and west line, that are likely to arise in bringing about what they want. The case is this: Congress has provided a north and south line. We accept that, and go on and elect a Legislature with that boundary. We go to work, also, and elect members of Congress over the whole; and in due time, also, the Legislature elects two Senators representing the whole to the border. These Senators and Representatives go on to Washington; and then we will suppose an east and west line to be adopted. The whole thing is in chaos again. Your Senators find themselves chosen by a Legislature not representing the State at all; and your Representatives in Congress are in the same predicament. They will find themselves in the end, all in chaos.

I had supposed, Mr. CHAIRMAN, that this question was settled; that we had done with it, after pleading and fighting over it, as we did. Really, there ought to be an end of it some time, it seems to me. I do not want to go again into it—to the propriety of making a State all long and no wide—extending from Lake Superior to the Mississippi, embracing some good country, and some waterless and treeless districts, instead of putting it into a more compact political and geographical form. I do not want to go into this discussion now. I think it better lie over.

Mr. COGGSWELL. Mr. CHAIRMAN, I wish to say to the gentleman from Dakota, (Mr. FOSTER,) that it presents nothing like the case manifesting itself to his mind. Of course, in the Schedule, provision will be made for the first Legislature. We shall there district the State into representative districts for Congress and the Legislature,

and into judicial districts; and this work will have to be gone over again at the very first session of the Legislature under this Constitution. And I apprehend, sir, that no Legislature will meet until after this Constitution shall be adopted, and we are admitted into the Union; and when we shall be admitted into the Union, then, as a matter of course, they can cut up the State into districts just as they see proper. I can see nothing likely to bring about those circumstances of trouble and disarrangement spoken of by the gentleman, and in my judgment they will not exist. I stated to gentlemen, at the outset of this discussion, when it was claimed by the gentleman from Dakota and the gentleman from Rice, that the moment we adopted the Congressional boundary line, there would be no backing out. I told these gentlemen, that I did not believe it, and that they would hear from me in the matter again, subsequently to that time.

Now, Mr. CHAIRMAN, it seems to me, that this is only a question whether the voice of the people shall be heard, or not; whether the intense popular desire and interest manifested in certain portions of the Territory, shall have a free expression through the ballot-box or not; or, whether we will just shut down, and say, the people shall not decide! they are such consummate fools they do not know what boundary they ought to have! Because we do not happen to think exactly as they think, therefore the wishes of those people living in the valley of the Minnesota river shall not be respected.

I wish gentlemen who are opposed to this proposition would just go back to fundamental principles—go back to that portion of this Constitution which we have adopted in the Bill of Rights, which treats of the fundamental right of man, and see whether the people have not the right to be heard. It seems to me, if they would do this, they would say: it is just as well to adopt this at once; because, if we do not, we just say in effect, that we know better than the people; that the people do not know how to direct themselves in this matter where the Enabling Act has been interposed; and, therefore, we will just take the bits into our own mouths, and judge for them. I think the people are just as competent to direct and decide for themselves in regard to boundary, as they are in regard to other matters. I say again, the only question here is, whether or not we shall stifle the voice of the people; and if gentlemen come up to argue it, they will find they must argue it on that point, ultimately, righteously and republicanly.

Mr. FOSTER. I merely wish to make a remark, Mr. CHAIRMAN; I am not going to speak in reply. The gentleman, in his reply, has hardly got rid of the case I made. The difficulty is in the first election of Representatives and Senators and members of Congress. However, the State may be subsequently districted, is another matter.

Mr. FOLSOM. Mr. CHAIRMAN: I was opposed to this proposition when it was up before. I thought it had been settled: but it seems to have been again sprung upon us. I live, sir, in the northern part of the Territory, and I am still opposed to this. My whole constituency are opposed to it, and I believe the whole northern portion of the State to be opposed to it. One reason for their opposition is in the question of the railroad land grants. Here we have had about six millions of acres of land granted for railroad purposes, and nearly the whole of it is in the south half. It is said that we are living in a country that is good for nothing; but I affirm, if that is anything, that our pine districts are good land. We are willing, sir, if gentlemen will be guided by fundamental principles, as has been remarked, to submit this question to the people, and I claim, that we are acting upon fundamental principles so long as we act in conformity with the Enabling Act of Congress, and no longer. We are not a legally organized body, if we depart from that. If the boundary is to be changed at all, I prefer that the Mississippi should be the line, and let us on the the north side remain one Territory. If the question is to be submitted to the people, I would say, let us have the utmost freedom in it; let every man vote just as he would have it. And, then I would say, let the Mississippi river be the line; and when you come into the valley of the Minnesota river, let them have a State to themselves if they will.

Mr. PHELPS. Mr. CHAIRMAN. I understand it is the desire of gentlemen that this resolution should be laid over; and therefore I will make the motion that the committee now rise, and report the resolution back to

the Convention with a recommendation, that it be laid on the table till to-morrow.

The motion was agreed to.

So the committee rose, and the CHAIRMAN reported accordingly.

The question being on postponement,

Mr. WILSON, said: Mr. PRESIDENT, this is not the same proposition that has been before acted upon, and which was settled; but, as my friend (Mr. COGGSWELL) has observed, it is quite a different question. It is, whether we will admit the people to express themselves at the polls, on something vital to the interests of every citizen of Minnesota; and I want the name of every member upon the record who will vote no, upon this question, against the people expressing themselves at the ballot box. I want to hear an argument, going to show, that the Enabling Act is in our way. We have never yet had one. I rather think there will be found no great number here to vote against the people expressing themselves at the ballot box.

Mr. NORTH. Mr. PRESIDENT: That argument has been used quite a number of times here, "I would like to see the names of gentlemen recorded against this or that," and I would bravely suggest to my friend from Winona, that, after using that argument, the vote has usually been very strong against it. I would suggest, that it better not be used.

Mr. WILSON. I never adopted it before.

The motion was agreed to.

So the resolution was laid over.

THE MILITIA.

Mr. MANTOR, from the Committe on the Militia, now submitted the following report, (number nineteen) which was read a first and second time, and laid on the table to be printed.

"SEC. 1. The Militia of this State shall be composed of all able bodied white male citizens, between the age of eighteen (18) and forty-five (45) years, except such as are or may be exempt by the laws of the United States, or of this State, and they shall be enrolled in such manner as may be provided by law.

SEC. 2. The Legislature shall provide by law for the organization, equipment and discipline of such number of volunteer troops as they shall deem necessary for the protection of the State and the preservation of order.

SEC. 3. All officers of the militia (staff officers excepted) shall be elected by persons, subject to military duty in their respective commands, in such manner as shall be provided by law.

SEC. 4. The Governor shall appoint the Adjutant, Quarter Master, and Commissary Generals of the State, and Major and Brigadier Generals and Colonels; and Colonels shall appoint their respective staff officers.

SEC. 5. All commissioned officers shall be commissioned by the Governor, but no Commission shall be issued for a longer time than five years.

SEC. 6. No person having conscientious scruples against bearing arms, shall be compelled to do military duty in time of peace, but may be required to pay an equivalent for such service.

Mr. DAVIS. Mr. PRESIDENT: I would ask if all the reports have been considered in Committee of the Whole?

The PRESIDENT. The Chair is unable to inform the gentleman.

And then, (at four o'clock, and twenty minutes,) on motion of Mr. MORGAN, the Convention adjourned till to-morrow morning at nine o'clock.

TWENTY-SIXTH DAY.

TUESDAY, August 11, 1857.

The Convention met at 9 o'clock, A. M.

The Journal of yesterday was read and approved.

Mr. MANTOR, from the Committee on Engrossment, reported back as correctly engrossed, report number fourteen, on the Elective Franchise.

BOUNDARY LINE.

On motion of Mr. HARDING, the Convention resolved itself into a Committee of the Whole (Mr. THOMPSON in the chair,) upon the resolution offered yesterday by the gentleman from Nicollet (Mr. DAVIS.) (For resolution, see proceedings of yesterday.)

Mr. LOWE. I understand that my colleague and friend (Mr. STANNARD,) did me the honor yesterday to announce to the Convention that I had some intention of expressing my opinion upon this question. It was not my intention to inflict a speech upon the Convention, though I am certainly opposed to the resolution, and shall vote against it without hesitation. The reason why I did not think of speaking upon the question, was because the reasons why it should not pass, appeared to me so obvious and clear, that it hardly needs to be remarked upon. The rea-

son why I am opposed to it, and think it should be rejected, is found in the position in which it will place our Constitution, and in the doubt which it will throw upon our prospect of a speedy admission. If we once pass out of the field which was within the purview of Congress when they passed the Enabling Act, we are in great danger of having our claim to admission rejected. It is well known that that act was passed with great difficulty, and that outside of that act, we have no claim upon Congress. As I understand that act, it was framed expressly with reference to the subject, that we might become a State without any further action of Congress. I understand that any action whatever, in departure from that act, will bring us again before Congress, and place us in extreme peril, a position in which we ought not to be placed under any circumstances whatever.

The gentleman from Nicollet (Mr. DAVIS) has said that this resolution if passed will operate merely as a memorial by which to bring the subject before Congress. That of itself is sufficient reason why it should be rejected. Congress would then be authorized to dispute the right of our senators and representatives that we may send there; and Congress, that so bitterly opposes the admission of every free State, that nearly refused admission to California, that nearly failed to pass the Enabling Act, would easily seize upon that as a pretext to embarrass the subject of our admission, and might postpone that event for a long period of time. If we know that the last House was Republican, or nearly balanced, we know that the next House will be Democratic and much more strongly opposed to the admission of Minnesota than the last was; while the Senate would seek a pretext for preventing her admission. Minnesota was thought then to be Democratic, while we now believe her to be Republican. That, of course, would be an additional reason, and a strong one, for rejecting her. I honestly believe that any such action upon our part would ensure the rejection of the application of this State, as an independent State, for a considerable length of time, I will not undertake to say how long. I cannot conceive of anything more insane and suicidal than such action upon the part of this Convention, and I do not understand what reason there is now, for any such action.

It is said that there have been public meetings held upon this subject in certain localities, and it is said that the reasons which operate in this case are not of a national character; not of a character that looks to the interests of the State in a large point of view; but that they grow out simply on the question of the removal of the capitol. Now that is a point upon which I am absolutely indifferent. If the people wish to move it, I shall raise no objection, but I protest strongly against this Convention being operated upon by the movements of gentlemen who have that in view. It is not a subject which properly concerns this Convention, nor should considerations growing out of that question sway their minds at all here. I think those gentlemen who come up here and try to influence our action by such motives, show no case whatever why we should peril the probability of our admission as a State, and render it problematical whether we shall be admitted. I think the action they recommend is reprobated upon its face, under the circumstances in which we are placed.

Mr. STANNARD. I propose to amend, by inserting after the words "up the main chan- "nel of the Mississippi river," the words, "to "the mouth of the Chippewa river, thence up "the main channel of the Chippewa river to "its source; thence in a right line to the "46th parallel of north latitude."

Much has been said about making this a square State and I think while we are about it, we might as well go the whole figure.

Mr. COGGSWELL. I had hoped that some gentleman would rise in his place and show some reason why this resolution should not be adopted. I did hope that some of those men who are so bitterly opposed to leaving this question to be decided by the people, would come here this morning and give us some substantial reasons why this question should not be left to the people, to be decided by them as they see fit. I did not suppose that an amendment such as has been offered by the gentleman from Chisago (Mr. STANNARD) would have been introduced, and introduced in place of an argument. I did not suppose that a gentleman of the standing of my friend from Chisago would undertake to throw burlesque upon this question, and I regret it very much.

Mr. CHAIRMAN, this is simply a question as to whether the people shall decide this question of boundary themselves. And gentlemen seek to avoid that issue by introducing amendments which are of a character which tend to throw ridicule and burlesque upon the question. The gentleman who preceded the gentleman from Chisago stated honestly and fairly that he should vote against this resolution; and he went on to give his reasons. Those reasons were, substantially, that by voting for this resolution he would be lending a hand in carrying out a proposition that would embarrass our admission into the Union; in other words, that if this resolution was adopted, and this proposition was submitted to the people as a separate proposition, that the tendency would be to embarrass our admission into the Union as a State. If that is so, the objection is a good and cogent one. Let us examine it and see if it is true. The resolution simply proposes to leave the question of boundary to the people to be decided by them. It proposes to leave it to them in the shape of a separate proposition, and it proposes to leave it in such a manner that the people simply express their wish and preference in regard to what this boundary line shall be. Now sir, it is admitted here, that we will submit other questions as separate propositions—as, for instance, the question as to the right of colored persons to vote. Has any gentleman risen in his place here and said that by submitting such a proposition, we embarrass our admission into the Union as a State? Not at all. No such argument has been made use of, when it has been urged here that we should submit that proposition as a separate proposition to be voted on by the people.

Now if that proposition does not embarrass our admission into the Union as a State, how happens it that this proposition, if submitted to the people in the same way and manner, is going to operate to embarrass our admission into the Union? Will gentlemen tell us the reasons? I tell you, Mr. CHAIRMAN, that it is not going to embarrass our admission into the Union at all, and I say that simply submitting this question to the people to be decided by them, in the shape of a preference, or wish, or desire, not only will not embarrass our admission into the Union, but will tend to expedite our admission as a State, and I will tell you why. It has been stated by the gentleman from Chisago (Mr. LOWE) that there is but little feeling in regard to this matter, and that that feeling has arisen in certain localities from a desire to have the Capitol removed to their locality. Now, sir, I stand here, speaking for that section of the country, and say that the majority of that people repudiate the idea of having the Capitol removed there for the present, to say the least of it. In talking with those men about this subject of boundary, they all say that their interest in it does not arise from their wish to have the Capitol removed to their section of the country; for they do not expect that, for a long time to come; that they want this East and West line adopted for the reason that it will make us a rich and powerful State. Such is the reason they urge.

But as I said yesterday, I do not propose to enter into a discussion of the merits of the question. Whatever may be said, both for and against this East and West line, may be said to the people when this proposition is properly before them. But upon this naked question as to whether we will submit it, it seems to me that there should be but one sentiment. It seems to me as though we should have full confidence in the people, and say to them that they are competent to settle this question—just as competent to decide the judiciary, or the negro, or any other propositions which may be submitted to them for their rejection or ratification.

If there were any truth in the assertion that it would tend to embarrass us in the least, in the matter of our admission into the Union, I should say that that was a consideration which we should take into view. If it is voted down as a matter of course, we come into the Union just as well; and if voted for by a majority, it goes with the Constitution to Congress just the same as the negro question goes there, and it is for Congress to determine whether they will grant that preference or not, just as it is for Congress to say whether or not we have a Republican Constitution, when that negro clause is in it. If Congress sees fit to grant our desire we shall rejoice at it, and if they refuse to grant it, they do no less than they did to the State of Wisconsin. At the

time Wisconsin formed her Constitution, she inserted an article like this.

"*Provided*, however, that the following alteration of the aforesaid boundary be and hereby is proposed to the Congress of the United States, as the preference of the State of Wisconsin, and if the same shall be assented and agreed to by the Congress of the United States, then the same shall be and forever remain obligatory on the State of Wisconsin, &c."

That was incorporated into her Constitution without having the question submitted to the people all. It was made part and parcel of her Constitution under an Enabling Act precisely like ours in all essential particulars. It was sent to Congress, and Congress rejected it, but there was no trouble. She came into the Union just as exactly as well as she would have done, provided that provision had not been contained in her Constitution. There was no embarrassment there, and it seems to me that if there were no embarrassment there, there can be no embarrassment in our case. All that Congress has to do is to say whether she will grant our petition or not. She can do neither more nor less than she did in the Wisconsin case. That is all a perfect humbug. It is all hue and cry got up for the purpose of shielding certain gentlemen in voting in a manner substantially saying that the people are not competent to decide this question for themselves; for it is nothing more or less than the question whether the people are qualified to decide for themselves or not. Whether an East and West line is the better line, or a North and South line is the better line, I do not pretend to say. We will discuss that question before the people, and I want it before the people so that they can discuss it, and when it is, I shall take such sides as my judgment approves.

Mr. LOWE. As the gentleman has made special reference to some remarks of mine, I beg the indulgence of the Convention for a moment again.

Mr. FOSTER. Will the gentleman from Chisago allow me to offer an amendment just here, and then I will yield the floor to him.

Mr. LOWE. Certainly.

Mr. STANNARD. I withdraw my amendment.

Mr. FOSTER. I offer the following substitute for the resolution:

"The people are hereby authorized to vote on a separate ballot for such boundary line for the State of Minnesota as they shall desire; and if a majority of all the votes cast for and against the Constitution shall be in favor of a different line from that prescribed in the first article of this Constitution, the said vote, on being certified by the Governor of this State to both Houses of Congress, shall be the memorial of the people of Minnesota, asking Congress to modify the boundary line of Minnesota, in the manner and form indicated as aforesaid, by the votes of a majority of the people."

Mr. LOWE. The point of controversy between the gentleman from Steele county (Mr. COGGSWELL) and myself is simply whether such action, on our part, as he recommends, would be likely to embarrass the admission of Minnesota into the Union as a State. I feel that the inevitable result must be so, if it should be accepted by Congress. If it should be rejected, as it was in the case of Wisconsin, it is true it might not have that effect. But our case is different from what theirs was. In the case of Wisconsin, no objection whatever was anticipated. No objection was made in Congress to the passage of their Enabling Act.

But I take it that if we go to Congress as a Republican State, we shall be encountered by all the opposition that can possibly be made; and hence it is necessary to use extreme caution in our movements. I would not object to leaving the question to the people under ordinary circumstances, but I do object to it, in view of the circumstances in which this Convention is placed. If there is any such thing as good sense, and discretion, in regard to the future, I maintain that the course we should take under such circumstances as the present is one of extreme caution. Any other course would expose the future of Minnesota to imminent danger. I say it in spite of the gentleman's assertion, and I appeal to the Convention if I am not right in my position. If this proposition should pass and be accepted by Congress—and it might be for the very purpose of embarrassing our future—then our choice of Senators and Representatives falls to the ground, and the whole Constitution falls to the ground also. What right has this body to make a Constitution for Southern Minnesota? This Constitution is not made by the people of that section, and the moment you

change the boundaries all our labors fall to the ground, if Congress accepts that boundary.

That is a fair view of the case, and a view which many members of Congress would like to take. The ascendancy of the southern Democracy, both in the Senate and House of Representatives, came near defeating the Enabling Act, in spite of the efforts of the delegate from this Territory, who used all the efforts possible to be used. I say, in spite of all that, the southern ascendancy nearly prevented the passage of the Enabling Act, when there was not a shadow of reason for it. What, then, will they do, when they have not only a shadow of reason, but a good reason for embarrassing the admission of our Territory as a State? I will not insult the understanding of this Convention by undertaking to argue that question. It looks to me self-evident upon the face of it, and I am willing to leave the matter with the Convention.

Mr. FOLSOM. I am in favor of the substitute offered by the gentleman from Dakota, (Mr. FOSTER) and I shall vote for it, and against the resolution. I do not see why this Convention should establish a line different from that which was given to us by Congress. If they are going to submit the question to the people at all, let them leave it to their choice entirely untrammeled. Let them be their own judges, and let not the Convention dictate to them upon what particular boundary they shall vote. The true Republican doctrine is to leave the question to the people unrestrained by any such restrictions. If this Convention wishes to debar us from the benefits of the Enabling Act, and thereby throw obstacles in the way of our coming into the Union upon an equal footing with the original States, let us decide so at once; let us go back and reconsider the vote by which we accepted the Enabling Act. But if we are going to stand by that act, let us stand up to it fairly and squarely without dodging. I contend that in sending out to the people the Constitution which we are framing, with the boundaries established by the Government, we do leave the people to decide whether or not they are satisfied with the boundaries. If they are not satisfied let them reject the Constitution. I contend that we have no right to depart from the boundaries laid down by Congress. But if we are going to submit the question at all, let every one vote as he sees fit. I am satisfied that a majority of the people are not in favor of the boundary proposed in the resolution. I know that the whole northern portion of the Territory, if an east and west line is to be forced upon them, do not wish that line to be upon the forty-sixth degree of north latitude.

Mr. WILSON. It is a little amusing, and a little astonishing, that men, with apparent honest, sober faces, will talk as my friend has done who has just taken his seat; and certainly I am astonished that any gentleman should offer such an amendment as has been offered by the gentleman from Dakota if he is in earnest about the matter. If gentlemen want to while away time, as though they were at some school boy lyceum, it might do; but when men are acting upon a matter of vital importance to the people, to trifle in this manner with the Convention is what I do not understand. Who does not know that if this question is submitted to a vote of the people as proposed by the substitute, there will be some dozen different lines voted for? Who does not know that there will be no unanimity? To remove the seat of government from St. Paul, it would be necessary that a greater number of votes be cast in favor of any one particular place, than one half the whole number of votes cast for all other places. Now where there are five or six different lines proposed there are five or six to one against us. It comes with bad grace for gentlemen to amend our proposition, who are themselves opposed to it in toto, and forsooth, its most deadly enemies. Our own friends can amend our own proposition. They who want a different line from the one already agreed upon—the line of the Enabling Act—may come up and assist in amending it. But gentlemen who are opposed to any change, ought to be satisfied to vote against it, and to meddle with it otherwise shows what it is done for. Those of us who want a boundary different from the one contained in the Enabling Act, ask for the boundary agreed upon in the resolution. I do not know that there is any difference of opinion among them upon that.

As I said yesterday, I represent two coun-

ties, in one of which probably two-thirds of the inhabitants are in favor of the north and south line, proposed in the Enabling Act. I objected to acting upon this resolution yesterday in the absence of the delegates from that county. One of those delegates is present to-day, and one of the delegates from my own county, who is a strong east and west line man, is absent, and I stand here upon this floor the sole representative from that county, in favor of this proposed change. I support it because I believe it will be for the greatest good of the greatest number of the people of this Territory, embraced within the limits of the proposed State. I gave notice, a day or two since, that I should introduce a proposition of this kind myself; but I found that my friend from Nicollet had bestowed a great deal more labor upon it than I had, and was doing his best to carry such a proposition. It is offered by him, and comes properly from him. He lives in a county where there is much feeling upon the subject. I am glad to operate with him, and if the proposition carries, he will deserve a great deal of praise—for praise it will be.

It is said, in opposition to this resolution, that Congress has proposed boundaries for us, and therefore we are restricted, and have no right to say anything about another line. Now I happened to be in Washington at the time the boundaries were fixed, and I know the influences which were brought to bear upon the committee of the House of Representatives who reported the bill establishing this boundary. I know who labored day and night with that committee; I know who stated that it was a *sine qua non* for the admission of Minnesota. I do know a few leading men, who made that committee, and who made Congress believe, that they represented the wishes of the people of Minnesota, when they represented that that was the boundary desired by the people of this Territory—leading men of both parties, I will say, both Democrats and Republicans. I, for one, remonstrated against it. But I was a stranger among them. One of the committee voted against it, and one of my acquaintances voted against it, and opposed it to the bitter end. Most of the committee—for there was an immense pressure brought to bear upon them—went in favor of the boundary proposed in the Enabling Act, because they were made to believe that the people of Minnesota wished it so. I can speak from actual knowledge, and I think no gentleman can deny what I state; I have no doubt whatever that Congress would as freely admit us under the boundaries proposed in this resolution, as under those of the Enabling Act, and I do not believe that any gentleman upon this floor has any ground for believing otherwise. No one shows, or pretends to show that it would be any disadvantage to Congress to admit us with different boundaries. Now it is a matter susceptible of proof that the whole West is interested in having the boundaries proposed in this resolution. It is for the interest of the whole West to have as large a representation in Congress as possible, and I think any man can see that this change will give us two additional United States Senators much sooner than if the north and south line is adhered to. This is a matter which the people of the North-west feel an interest in. Who does not know that, if we take the boundaries proposed in the resolution, we shall soon have another State north of this? Who does not know that it will increase in population much faster, if set off by itself? Now if Congress would not admit us, it must be because we are cutting up the Territory and leaving it in a bad shape for another State. Now gentlemen's own arguments show that we leave the remaining Territory in a better shape. Therefore, it would be for the interest of Congress to admit us with those boundaries, rather than the boundaries proposed by the Enabling Act.

But, as remarked by my friend from Steele county, (Mr. COGGSWELL,) I am not going to argue this question further. I have, perhaps, talked about it as much as any gentleman in this Convention. But I wish to say this much further, that here is a proposition to test the correctness of the representations made last winter by our leading men at Washington, as to the wishes of our people in reference to this north and south line. I say that I really believe that the people of this Territory do prefer an east and west line to that proposed in the Enabling Act. And I say here again, that I do not see how gentlemen, and especially gentlemen who have had no objection before this, can believe that

we should be excluded from coming into the Union on account of rejecting the boundaries of the Enabling Act, and choosing some other. Let the people say what they do want, and let us see whether they want an east and west, or a north and south line.

Let our people see that we are not of those who forbid them from having a fair apportionment. The scenes of the last winter were the most disgraceful ever enacted in this Territory. The Legislature prevented the people from having a fair apportionment and a fair representation in this Constitutional Convention; and they said boldly, that if they should let the people have it, they would go in for an east and west line of division.

As to this matter of removal of the Capital, let me say that I had no sympathy with that Capital movement last winter. I deemed it impolitic and unwise, and was opposed to it. I thought the movement was premature, though the majority were actuated by the best motives and thought they were doing the best thing imaginable. I have no feeling in common with them upon that one point. That is not what we are after now. We are after the greatest good for the whole people of Minnesota. We are testing this question of boundary fairly, and every one can meet us fairly. I hope the matter will be left to the people, so that Congress may know what the people want from their own mouths, and not be dependent upon the representations of interested parties. As I said, on a former occasion, the first petition which was ever got up for the Enabling Act, was got up in and around Winona. We all worked for it there, with the express understanding that it was to be with an east and west boundary. That petition went to Congress; I saw it there; and there it was used as a petition for a north and south line, contrary to our express wishes. It was used for a purpose to which, above all others, we were opposed.

As to the substitute proposed by the gentleman from Hastings, (Mr. FOSTER) I want to see it voted down of course, and I do not think there ought to be any ceremony upon it. I hope gentlemen who are not friendly to this movement at all, who want to kill it by direction or indirection, will not trouble us with amendments which amount to nothing except for delay. If they think that any man here upon our side is foolish enough to be led off by any such thing as that, I want to show them that they are mistaken. As to taking in part of Wisconsin, as proposed by the gentleman from Chisago, that is just as plausible as this substitute. They are both of a piece.

Mr. STANNARD. It is rather unfortunate for my colleague Mr. LOWE, and myself, that we have to stand almost alone from the northern part of the Territory. It so happens that nearly all the delegates from the northern part of the Territory belong in the other wing of the Capitol. But, sir, I cannot sit here quietly and hear such remarks as have been uttered upon this floor. I hardly know whether the gentleman from Winona (Mr. WILSON) in using the term "humbug" referred to me or to the gentleman from Dakota, (Mr. FOSTER) in reference to the treatment we were disposed to observe towards this resolution. I believe, in the first place, that Congress has the right to dispose of, and make all needful rules and regulations respecting the Territories of the United States, and that they have the right to prescribe our boundaries. We have been let into the secret agencies and causes which perhaps operated at Washington last winter, in procuring the passage of this Enabling Act. But, sir, I am confident that the committee on Territories had in view, at the same time, the interest of the whole Northwest, and had in view the future projected States, when they carved out the State of Minnesota as described in the Enabling Act, and that they had an eye single to the formation of other States. It is said that we manifest an undue feeling in regard to this matter. Let us look at the case as it stands. Here is a projected east and west line, which does not intersect the district of either the gentlemen from Nicollet (Mr. DAVIS) or the district of the gentleman from Winona, (Mr. WILSON). It in no way disfranchises any portion of their constituents. Nor does it divide them from their natural thoroughfares. On the other hand the line which the gentlemen propose to submit to the people, does cut in two my district. Now where does the proposition come from? Does it come from those whose districts are cut up by a north and south line? Not at all. And I can see no other reason why they should

urge it, than that it will change the geographical centre of the State, and bring the seat of government, eventually, into one or the other of those gentleman's districts. If so, then I can understand why the gentleman from Winona feels so much interest in it. The Capitol of the State, whenever located, must, necessarily bring with it a great deal of business to the people; and consequently Winona, occupying the position she does, must necessarily be the outlet of that business, and of course it would be for her benefit.

I believe that the Enabling Act is just as binding upon us as any act of Congress, and I introduced my amendment merely that gentlemen might see where they stood. I am glad that the gentleman from Steele county (Mr. COGGSWELL) referred to the case of Wisconsin. A portion of my district was settled at that very time, and one gentleman who now occupies a seat in the other end of the Capitol was a member of that Wisconsin Convention, and it is a fact that he lived as much upon this side of the St. Croix river as upon the other. He represented this whole Territory, and that portion of this Territory lying north of the Mississippi river, was the only portion to which the Indian title had been extinguished, and it was then the wish of the people of that part of this Territory—and the gentlemen in the other wing of the Capitol to whom I have referred supported that wish—to come under the State government of Wisconsin. And the clause in their Constitution which the gentleman from Steele county read, shows that the only then settled portion of Minnesota, was included within that proposed alteration of boundary. The people were anxious to come under a State government but Congress refused to admit them, and now gentlemen would shut us out again.

It has been charged upon the Legislature of last winter that they refused to make an apportionment.

Now, Mr. CHAIRMAN, I do pretend to know something about that matter. An apportionment bill was prepared, in the House of Representatives, which nearly doubled the representation of Southern Minnesota, and lessened the representation of Northern Minnesota, and I do know that the representatives from Northern Minnesota supported that bill in the House of Representatives. I can show it by the journal of the House.

Mr. COGGSWELL. As this is a matter of considerable interest to my constituents, I hope the committee will indulge me in making a few further remarks in regard to the amendment proposed by the gentleman from Dakota (Mr. FOSTER.) I wish to say here, that if I believed his proposition were more Republican than ours, and we had the ability to carry out that proposition to the extent to which he seems to think we might we carry it, I certainly would go for it. But we must recollect that we were sent here for the purpose of framing certain propositions to be submitted to the people. We came here for the purpose of framing certain propositions as to the rights of men. Those propositions are incorporated in what we term the Bill of Rights, and none of those propositions amount to anything until they have been sanctioned and ratified by the people. We came here to frame certain propositions in regard to the executive branch of our State government. None of those propositions amount to anything until ratified by the people. We came here too for the purpose of framing certain propositions in regard to the legislative and judicial branches of our State government. None of those propositions amount to anything until they have been ratified by the people.

Now sir, if it is not our duty to frame certain specific propositions to submit to the people, why not submit the whole thing to the people; why not let the people go to the ballot boxes, and let each one deposit in the ballot box his whole idea in regard to a Constitution and State government? Let one man go to the ballot box and say that a black man may be governor of the State of Minnesota; let another man say that only a white man shall be governor; let another man go to the ballot box and say that the governor shall hold office two years; and another say he may hold ten years; let one man go to the ballot box and say that no man, unless he is an Irishman, shall be judge of a District Court; and another may say that no man shall be a District Judge unless he was born in the State of Massachusetts; let one man go to the ballot box and say that no man shall be judge who has more than one eye; and an-

other man that no person shall be judge unless he has a lame leg; let men go to the ballot boxes and deposit all these conceivable ridiculous propositions. No more ridiculous would that be, than this proposition of the gentleman from Dakota. Just carry this same thing into practical operation, in regard to an east and west line; let one man go to the ballot box and say that the State of Minnesota shall be composed solely of Dakota County; let another man say through the ballot box that the State shall be composed of only a particular district which will subserve his political interests.

How ridiculous, does all this thing appear. Now we all know that we came here for the purpose of framing definite and specific propositions; and such, and such only must be submitted to the people. We cannot submit any question in the manner proposed by the amendment of the gentleman from Dakota County. He, too, knows it, and he takes the course he has, for the purpose of avoiding the responsibility of coming up manfully and saying to a large portion of the people of Minnesota that they shall not have the right of expressing their sentiments in regard to this east and west line.

Now if there were any feeling in any part or portion of the Territory in regard to any other line than the one proposed in this resolution, then I should be in favor of respecting that sentiment and of submitting a specific proposition, and of allowing the people to express their views and sentiments in regard to it. If there were any particular feeling in regard to any particular line, and it amounted to anything like the feeling in regard to the line we have proposed, I certainly should be in favor of submitting it as a separate proposition. But there is no feeling in regard to any other line than the one mentioned in this resolution.

Now in regard to all this talk which we have heard, in regard to the efforts which were made in Congress to secure this particular line, laid down in the Enabling Act, I have nothing to say, for the reason that it has nothing to do with the question before us. In regard to what was done in the Legislature in regard to an apportionment different from the one which now exists, I have nothing to say because it has no connection with the subject under consideration. The only question before us is whether this question shall be submitted as a separate proposition, and when that question is brought before the people, we can tell them of all the trickery and knavery which existed at the time this north and south line was proposed and carried through Congress; we can tell them what consummate rascals we had in the last Legislature, and how they would not allow us of southern Minnesota to send up here a proper representation; we can tell them of the benefits, the advantages and disadvantages, which will arise from the adoption of this east and west line. But all these things have nothing to do with the question as it now stands. When it comes before the people, my friend from Chisago (Mr. STANNARD) will have an opportunity to go before his constituents and urge them to vote against this east and west line, because it will cut them in two; because it will cut them across the fifth rib; because his chance to get to the Legislature will not be so good as they would otherwise be, and therefore, for Heaven's sake vote against it. Now that is a good argument before the people; but they have nothing to do here with this question, as to whether or not th question shall be submitted to the people, and I desire that gentlemen instead of lugging in all these extraneous matters, which are proper to be urged before the people, when the question is before them, would come up now and meet the question fairly. If gentlemen will come forward and say that there is any feeling in regard to any other line, which amounts to anything, though it should cut Steele County right in two, I certainly will vote for submitting it to the people. And why? Because I believe it would be carrying out the doctrine of popular sovereignty—the right and power and capacity of the people to control and govern and decide these questions for themselves.

I will not be backward or behind in this matter. I will not urge against it the argument which is urged against us—that it cuts my district in two. Notwithstanding I may suffer, I will vote for it, and I ask gentlemen to come up and meet this question fairly, as to whether this question shall be submitted to the people or not. If they say tha there are any four, six or eight counties that

have any feeling in regard to any other particular line, let us have their proposition. We have got, at least seven or eight counties in this Territory, which are deeply interested in regard to this line, and which say out plumply, and absolutely, that unless they have an opportunity to express their views in regard to this matter, they will vote against the Constitution which is submitted for their rejection or adoption.

Mr. STANNARD. It has been reiterated again that the proposition last winter, to give southern Minnesota her fair representation, was defeated in the House of Representatives. Sir, I deny that. It did pass the House of Representatives.

Mr. COGGSWELL. I said that when I went before the people, I would discuss that question and see whether it was true or not.

Mr. STANNARD. My objection to this proposition is fast giving away, if the object is to manufacture thunder for gentlemen to use before the people.

Mr. FOSTER. I submitted my substitute because it has been my uniform practice here, as all know, if I cannot get exactly the proposition I want, to endeavor to put such propositions as are submitted to us, in the best possible shape before I am called to vote upon them, even though I do not like them at all. That is a fair rule in legislation. I think when gentlemen talk about trifling, it is they that are trifling; and when they talk about smothering the voice of the people, it is they that are trying to smother the voice of the people.

If there is anything in this matter of submitting to the voice of the people, my proposition does it in the most effectual and broadest manner. It does not mark out a chalk line, and say that if the people choose to vote for that line, they shall have the privilege, and that they shall not have the privilege of voting for any other line. I have my doubts about the propriety of submitting questions of this kind to the people. They have issues enough before them, and to throw in this local issue, this speculative issue, this question as to where the Capitol shall be, or where certain town sites shall grow up—all of which are involved in this question—is impolitic and unwise. It ought not to be brought in and made a bone of contention. As a general rule it is not best to submit anything but a question involving a principle, and this does not. The question as to whether the word "white" should or should not be stricken from the Constitution, involves a great principle, and is proper to be submitted to the people. But it is a matter of doubtful propriety, to say the least of it, to submit to the people a question of mere detail—such as the establishment of a particular line—especially after Congress has prescribed a line. But if the question is to go to the people, and they are to decide, I say do not restrict them to any one or two lines. Let them have the largest liberty to express their opinions upon the subject. I find that those gentlemen who talk so much about smothering the voice of the people, favor smothering it, whenever it does not exactly suit their purposes to have it expressed. We have had some *expose* of the motives which were brought to bear in Washington in order to get this North and South line. The gentleman from Winona (Mr. WILSON) tells us that certain influential and prominent men managed that matter, and fixed the line, and I think that a majority of the Minnesotians there would probably have a large influence in determining the line reported by the committee on Territories. If we submit the matter of boundary again, how do we know but what the same influences will be brought to bear, and we have all this trouble and contest for nothing? The gentleman, when he went in for an East and West line at Washington, was too greedy. Those gentlemen who were there, were there not merely for the purpose of arranging an East and West line, or a North and South line, but they were there for the purpose of fixing this matter of railroads, and Winona got her share, and so did other places in the Territory, while Hastings got nothing. Now when Winona and those other fortunate portions of the Territory have got their share, they come here and want to grab our share too. They want to cut up the district of my friend from Chisago (Mr. STANNARD) into two, leaving one-half in one State, and the other half to go into another; and to place my county in the North-east corner of a State. Now I think they ought to rest content, and allow somebody else to have a little something, after they have all these railroads fixed to their liking.

The gentleman from Steele county (Mr. COGGSWELL,) has said if he thought there were any considerable body of the people who were in favor of any other particular line than the one mentioned in the resolution, he would be in favor of giving them a chance to express their wishes. Now it is perfectly notorious that the people of St. Paul, and of St. Croix, desire, if there is to be an east and west line at all, that the Mississippi and the St. Croix shall form that line. They want to be in the northern State, and not in a southern State, and no opinion has been more strongly expressed than that. So there is a third party who are in favor of another line than that mentioned in the resolution. If as the gentleman from Winona (Mr. WILSON,) said, there will be a thousand different lines named, and consequently, that the east and west line they wanted for their own purposes, would not be likely to be adopted, I think that is a sufficient reason for not submmitting the question. If the people are in favor of divers lines, and if the act of Congress is to be departed from at all, why, let all these various views have a full and untrammeled opportunity of being expressed. The argument the gentleman uses, that his particular line might fail, is only an additional reason and argument for those who really are in favor of the people having their own free-will. about it, if it is submitted at all. Why confine them down, and say, "You shall not "have the privilege of voting for any other "line than a certain specified line."

Some gentleman has talked about our daring to vote not to allow the people to act upon this matter. If we are to talk in that style, I, too, want to say to those gentlemen, just come up if they dare, and vote against the people having this privilege in the largest sense. I want their names down in black and white, that I may see who really are in favor of allowing the people to exercise their real choice in this matter.

There is another point which members of the Convention ought to reflect upon, and this is, that by the course of events, that portion of the Territory which would be most opposed to this East and West line, is not properly represented in this Hall. To be sure, it may be said that it is so by their own act, but still it is a fact, and we should move very cautiously in what we do by reason of that very fact, for which the people of the northern portion of the Territory are not themselves to be blamed. Their voice cannot be heard, and therefore you should exercise a great deal of forbearance and caution. Do not, because you may have the numerical strength coming from the South, ignore those people, and attempt to force a state of things upon them, when they cannot have a voice in the matter. It has been well said that the people of St. Croix, and all that region, who are interested in the most vital manner, are not represented upon this floor, as they would have been but for peculiar circumstances.

There has been some talk here about the merits of this question. Now I do not propose to enter into a discussion of that matter. But the idea of dividing this State by an East and West line running to the Missouri river, making the State about one hundred miles wide by three, four, or five hundred miles long, is to me an most absurd idea. It would be making a State, too, which had but one interest, and that agricultural. Congress proposes to unite into one a people who are now connected together by business relations and associations, who are connected together by water communications, and who are soon to be intimately connected by this great system of railroads which, like a net work, is to cover the Territory from East to West, and from North to South. Now I say that when you undertake to bind people together politically, you should combine those whom nature and the geographical position of the country has connected together, and whose business naturally brings them together, in as near by a square form as possible. That, this North and South line does. Contrast the States marked out by those two proposed lines, and consider their relative interests and resources. There is no comparison between them. That marked out by Congress would combine agriculture, commerce, and the pineries, sources of permanent wealth and prosperity to the State.

Without arguing this matter further, I again repeat that if this question is to be submitted to the people at all, it should be submitted in the manner I have indicated in my substitute. I hope gentlemen upon this floor

will not attempt to smother the voice of the people by their proposition.

Mr. PERKINS. I am not impelled in my course upon this subject by the press of any public sentiment at home. I have received no letters urging me to this or that particular course in regard to the boundary line of the State. But I happen to have been Chairman of the committee on Boundaries, which reported in favor of a north and south line. A majority of the committee were in favor of the boundaries proposed by Congress. There was a minority, not in favor of it. So far as the merits of these two several lines are concerned, I do not propose to discuss that.

There are gentlemen who understand the interests of this Territory much better than I do, and who understand its aspects, and its resources in all its parts.

If this resolution proposed to incorporate into the Constitution a clause declaring that an east and west line should be the boundary taken and adopted by the State, to the exclusion of all others, I should most certainly oppose it. I favor the adoption of the line prescribed by the Enabling Act, because I feel it to be necessary under the circumstances. The gentlemen from Winona (Mr. WILSON) a member of the committee on Boundaries, stated here, if I understood him correctly, that we could come into the Union just as well by adopting boundaries different from those prescribed by Congress, as we can by adopting that prescribed line. But it seems to me that any person, with half an eye, should see the utter fallacy of such a statement. It is useless to disguise the fact that we are sitting here under peculiar circumstances. It seems to me that it is useless to disguise the fact that a strict compliance with the Enabling Act, in all its provisions, is indispensable to the early admission of Minnesota into the Union as an independent State. Gentlemen may talk as much as they please to the contrary, still I apprehend that they cannot close their eyes to the facts I have mentioned. And it has been admitted here over and over again, that the facts I have stated are true, and as a necessary consequence, that there was but one course for us to pursue. It has been urged so strongly that we should proceed solely under the Enabling Act, and should have nothing whatever to do with the act passed by the Territorial Legislature, that a simple proposition to obtain a certified copy of that act, was voted down by a large majority, because it was considered a matter of pollution, and would contaminate all the proceedings of the Convention and would exclude us from admission into the Union as a State. And this was owing to the fact, which is notorious, and known all over the country, that this Convention is divided; that the Democrats have abstracted themselves from the rest of the Convention and are now sitting in the other end of the Capitol; and it was supposed at the time, and has been ever since —and it is useless to deny it—that Congress, being Democratic, would not be more favorable than it would be obliged to be, towards the actions of this Convention. Gentlemen say we have no right to believe that. All the world beside believe differently, and why should gentlemen say that this little body of delegates should believe differently, when all the world know and believe what I have stated to be truth?

Now my constituents, upon this question as an independent question, are somewhat divided; a portion of them, I have no doubt, would be in favor of an East and West line, and a portion of them in favor of a North and South line. But, under the circumstances, Congress, having prescribed a North and South line, they feel it important those boundaries should be accepted by this Convention and by the State, in order that we may not be delayed in our admission into the Union. That seems to me to be a sensible view of the question. Although other gentlemen have expressed a different view, I have not, and I have no doubt that if this Convention should go on and incorporate into the Constitution an article adopting different boundaries than those prescribed by Congress, that Congress would not admit us, and gentlemen all along have acted consistently with that idea, and it is only upon this subject of boundaries that they have ever differed from me in regard to the course we ought to pursue under the circumstances. In every other respect they have been very careful indeed not to place this Convention in an attitude of opposition to the general government, because they have appreciated the difficulties which surround us. They very well understood the peculiar cir-

cumstances under which we were sitting, and know the obstacles which might be thrown in our way, by this line of policy, to prevent or retard our admission into the Union. That has been very well understood all along, and it is useless at the present time for us to wince this question out of sight.

Well, it was under the influence of those circumstances and considerations, that I favored the acceptance of the boundaries prescribed by Congress, by incorporating them into the Constitution. But now there is a proposition brought before us, somewhat different from that. If I understand it, it is like this—not that we shall reconsider what we have done and adopt boundaries different from those we have already adopted and incorporated into the Constitution, but that a request shall be made to Congress, if the people desire it, for a change in such boundaries. Now, so far as I can see, that is a very reasonable and proper thing, and I do not see any necessity for any great excitement in regard to it. It is simply a respectful petition or memorial. We have already incorporated into the Constitution an article accepting the boundaries prescribed by Congress. And now it is proposed to accompany that acceptance, with a simple and polite request to Congress to change those boundaries in obedience with the expressed wishes of the people of Minnesota manifested through the ballot-boxes. I cannot see that a proposition of that kind would be likely to embarrass the admission of Minnesota in the least. Congress can take no exception whatever to a request of that respectful kind. Can she? Where is the ground of exception to it? I am willing to trust this matter to the people, and if they desire other limits and other boundaries than those proposed by Congress, I am perfectly willing that they should have them. I apprehend that a great majority would not be in favor of any such course, if it were going to embarrass the admission of our State with the Union. But it will not; it cannot.

Now let the question go out to the people, and let them vote upon it. I understand that there is no representative here from above the forty-sixth degree of latitude; and, therefore, nobody is to be excluded that is represented in this Convention. No harm is to be done. If it were to cut off a portion of the Territorial representatives here, a different question would be presented. But I understand that nothing of that kind is proposed by this proposition. And then all agree, if it is to go to the people at all, it should go in the shape proposed by the original resolution, and not as proposed by the substitute of the gentleman from Dakota, (Mr. FOSTER,) for that would evidently defeat the whole object in view. Nothing could be done under that, and no definite line could be prescribed; and such confusion would result from it that it would be useless. A definite proposition, politely asking Congress to change the boundaries can do no harm; and it is a simple matter of justice to the people that they should be permitted to make such request if they desire.

Mr. GALBRAITH. The gentleman who has just taken his seat, represents that there is no one here from a portion of the Territory which is proposed, by this resolution, to be cut off from the State. There is a representative in this body from such portion of the Territory—the gentleman from Morrison county, (Mr. AYER.) He is not in his seat to-day, and it is unfortunate that those portions of the Territory which are mostly without the line are unrepresented here. We should not take undue advantage of their misfortunes. This is a question, which not only involves the plausible argument of submitting this to the people, but it involves many other and serious questions which should be well considered before we take final action upon it. I am not prepared to give a final vote upon it to-day, but I am willing and glad to hear gentlemen discuss it. I know the views of my constituents upon this matter, and I know my own views, and I am decidedly and positively in favor of a north and south line; and I think that when I say that, I am also expressing the sentiments of a large majority of my constituents. The question is simply this: do we not, in introducing and debating this proposition in this Convention, throw ourselves at sea, and back upon the principles of squatter sovereignty, and, in fact, discard the Enabling Act? I wish gentlemen to discuss this matter and make it plain. We may say, and truly, that this is only a proviso; that we have accepted the Enabling Act, and do accept it now; but how? Upon conditions, say gentlemen. Does that assert, at least by im-

plication, that we do not consider the Enabling Act binding? And will not that throw us at sea again; and does it not say, that notwithstanding the Enabling Act, we have a right to do just as we please? I understand this Convention to be organized under the Enabling Act; that it has claimed its organization from the beginning up to this time, under the Enabling Act; and that we hold our seats here by virtue of that Act. Now what do we do by this proposition? We submit a question to the people, who are not within the limits of the proposed State, because we discard the Enabling Act, and go out of the record and make a provision for people whom we do not represent, and who, as has been asserted upon this floor, have no representation here—that is the Pembina portion of our Territory. If we depart from the Enabling Act, we submit the question to the whole Territory; to the people living west of the line of the proposed State. And do we not by that very act discard the Enabling Act? We may put it in as plausible language as we please, but still do we not discard it? Notwithstanding the Enabling Act, which we profess to act under here; by virtue of which we hold our seats; and by virtue of which we have said that certain portions of our Territory shall not be represented here; notwithstanding that, I say, we propose to legislate for a Territory without our limits and without our jurisdiction. Is not that so? Who represents the Territory without the proposed limits, in this body? Gentlemen may say that there are but few inhabitants there. That is true. But if there were but a hundred men, their voice should be heard. We cannot act for them. This resolution proposes that the people of the whole Territory shall vote upon the resolution. Am I right?

Mr. COGGSWELL. Will the Chair read the resolution for the gentleman's benefit.

The resolution was again read.

Mr. GALBRAITH. It submits the question to the people of this Territory. The Territory is organized under the Organic Act. We must have an election west of the line of the proposed State. Now who do we represent here? Do not we represent only the people within the limits of the proposed State? and have we not asserted it as a fundamental position, that nobody has a right to be represented here, who do not reside within the limits of the proposed State? Then why go beyond our jurisdiction? I ask this question in all good faith, because I see in this thing not only a departure from the Enabling Act itself, but I see breakers ahead; I see the whole thing fraught with danger.

Mr. COGGSWELL. I suppose the first part of that resolution might be worded a little differently. It was the intention to have the resolution so as to submit it to the legal and qualified voters residing within the limits of the proposed State. And if that is the only objection the gentleman has, that can easily be obviated.

Mr. GALBRAITH. But there is another and greater objection. There is a large portion of our territory lying west of us, as large as that portion which we represent, which we have no business to act for. Now by what authority do we hold our seats here? Under the authority of the Enabling Act, and no other authority whatever. We were not elected by virtue of the authority of squatter sovereignty. I was elected under that act and you were elected under it, and it is the charter by which we hold our seats, and the moment we depart from it, I believe we have no right in this Convention. Congress said we should elect delegates so and so. That was done. We assembled here under that act, and the moment we depart from it we become a Convention not elected under the Enabling Act, but by our own act we become a Convention elected under the principles of squatter sovereignty. If then we can amend the boundaries of the State as proposed by Congress, then we have the right to fix the boundaries of a State which we do not represent, for we have no representation from that portion of our Territory which is included in that resolution, and which lies west of the limits of the proposed State, and which we know we have no right to legislate for. Then how can we give to the people within the limits of the pro-proposed State the right to say that a certain portion of our Territory lying without those limits shall be a part of our State. Has it not been urged, that the validity of our organization is based in part upon the fact that that part of our Territory, not included within the limits of the proposed State was not and should not be represented here? We

have held that position, and why? Because we hold seats under the Enabling Act. Now if we change it, we run upon a dangerous rock, because we thereby profess to represent another portion of our Territory without the limits of the proposed State, which is as large as our own, and which we have said should not be represented here. Who in this Convention has said that anybody should represent, in this Convention, a portion of Territory outside the limits of the proposed State? But you depart from that principle in submitting a proposition for the benefit of that portion of territory. Do not we thereby say that that territory shall be represented, and that all of our opposition to the admission of the Pembina members was without foundation? I see danger in such a course. If gentlemen can disabuse my mind I would like to have them do it, and before they force me to vote upon this resolution, I hope they will clear up these difficulties, so that we may be placed in a position that we can help these gentlemen honorably and conscientiously, for we have all a desire to do so, if we can, without destroying our own organization, and abandoning the authority under which we act. Disabuse my mind of these things, and there are no gentlemen whom I would sustain more cordially than the Representatives who stand upon this floor honorably striving to get an East and West line. I differ with them, but if this question can be submitted without sacrificing our position, I will vote with them.

Mr. BALCOMBE. Mr. CHAIRMAN: I do not wish to discuss the merits of this question, as to the difference between an East and West line of division and a North and South line of division—as to which would be the best, provided we might have our choice.—This is not the place nor the time to discuss that question. That question has been discussed somewhat at length before the people heretofore; and if the proposition, which the gentleman from Nicollet, [Mr. DAVIS], has offered should be adopted and sent forth for the people to vote for or against, then will be the time to discuss this question.

It is not necessary for me to tell this Convention, nor is it necessary for me to notify the people abroad throughout the Territory, that I am in favor of an East and West line. This is well known. The Chairman of this Committee well knows, that I expressed an opinion in favor of this division line two years ago in the other Hall; that I have done the same thing since in public meetings, frequently declaring myself in favor of an East and West line of division, and I still remain in favor of such a division. I have not thought it necessary to demonstrate that I was a man of wisdom by changing my opinion on this subject. It is said by high authority, that wise men change sometimes, but fools never. Perhaps, I do not know, but that I shall have to remain in the catalogue of fools, for not deeming it necessary to indulge in some change of opinion once a year, or once in six months or three months, for the sake of showing myself to be a wise man. If I were brought to this test, I question very much whether I should be able to make much show of wisdom. I am not made of that kind of material, sir. I believe, that when a man has once taken a position in the belief that it is right, he should stand to it, through thick and thin, under all circumstances, whether adverse or prosperous. Never, sir, for the sake of political preferment, for the sake of proving myself a wise man, for the sake of accomplishing an election to a Constitutional Convention, or to the Senate of the United States, I can change my position on no question whatever. If, sir, I cannot attain to these very desirable and much sought for positions, without changing front every three months, or every six months, I shall never attain to them.

As to the proposition before the Convention, I cannot see the least harm, Mr. CHAIRMAN, in submitting this as a separate proposition to the people. I cannot see that we should in any way vitiate any action of the Convention by so doing. We have already accepted the boundary as proposed by Congress. We then, by presenting this proposition to the people, add a proviso—not a proviso exactly, but a memorial—in case a majority of the people sanction it, we add a memorial to the Constitution, asking Congress to voluntarily change our boundary, if they see fit to do so; and if not, we travel on as having accepted the boundary proposed in the Enabling Act. They may give us either boundary, and it is accepted and reliable, and the country and all the operations of govern-

ment may proceed upon it as the accepted and established boundary.

But something has been said about "Squatter Sovereignty." The same kind of talk has heretofore been thrown out against those members of the Republican party who have seen fit to favor this East and West line—that we were thereby favoring the doctrine of Squatter Sovereignty, and leaving the doctrine of the Republican party. Now I cannot see it in that light, nor never could.

When a State knocks for admission into the Union, it is a matter of interest to every State to know upon what principle the new State is to be admitted. It is for them to see that the State is not admitted upon any principle which will have a bad effect. It is the right of Congress to reject any State that may knock for admission, with a Constitution sanctioning an evil within her limits, calculated to have an injurious effect on every other State in the Union. I say it is the right of Congress to reject such a State. It is the position of the Republican party, that a State presenting itself with a Constitution sanctioning slavery, shall not be admitted into the Union. Why? Such a State shall not be admitted, because it is the belief of the Republican party, that the institution of slavery is an evil which should not be extended. It is an evil continually, in a social as well as a pecuniary and political point of view in every State in the Union—where it exists, and where it does not exist—and it is every way injurious to every State in the Union, to admit a new State with slavery; and therefore Congress has the right to reject a State with such an evil in their midst. That is our doctrine.

But this question of boundary is more a local question. It cannot affect other States. It cannot affect injuriously the society of any other State. It cannot injuriously affect any other State either pecuniarily or politically. It is a question of mere local concern and nothing more. It is a matter of interest to the people within these limits, and to nobody else; a matter which Congress cares nothing about one way or another. What difference does it make to other States what our boundary shall be, whether it be an East and West, or a North and South division line that we shall adopt? Does it make any difference in the pecuniary or the social interests of any other State? Not at all. Inasmuch then, as this matter is a question purely local, interesting to the people of this Territory, and to no other people, Congress should pay some attention to the memorial of the people within those limits.

And I say the people have a right to make this memorial. They do not thereby assume to dictate to Congress. They do not thereby assume to set up a State government for themselves, contrary to the wish and the authority of Congress. They simply make a request of Congress, and Congress can grant it or not, as that body shall see fit. Is there any thing anti-Republican in that? Any thing wrong in it? Any thing discreditable to Congress? If there is, Mr. CHAIRMAN, I cannot see it.

Mr. CHAIRMAN: I look upon this as a mere expression of the wish of the people. We We might, perhaps get it in some other way, but this is thought to be the very best manner in which the case can be presented—a strong, firm manner, which cannot be got round easily.

And what objection can Congress have to our sending up a memorial on this subject? For it is nothing more nor less than a memorial. Will that body think we are interfering with their rights to govern this Territory? Not a bit of it. Is the Enabling Act an act which that body cannot reverse if they should see fit? Cannot that body so far change their former act as to admit us with an East and West line? Is there any thing that forbids it? If they have passed an Enabling Act, is that a finality? Not at all. Have they not changed State boundaries before, at the request of the people? Certainly they have. And cannot that body do the same thing again? Certainly they can. Because Mr. CHAIRMAN, requests of this kind have been made heretofore by Territories, and such requests have been granted in some instances, and refused in others.

But the gentleman who was last upon the floor has brought up an objection on account of a few voters who are living outside of the proposed State limits, and within the limits proposed by the Enabling Act of Congress. Now, Mr. CHAIRMAN: I am perfectly willing those voters should be allowed to vote on this

question. I am wiling upon the general principle of submitting this Constitution to the people. If it should be submitted to those living within the limits of the proposed State, why should not those contemplated in the Enabling Act, but living still outside of the proposed limits, have an opportunity of expressing themselves? I have been informed, that those people living outside are in favor of an east and west division. Now if this should be so, and a majority of the voters within the proposed limits should be in favor of an east and west division, then I say, would it not be the moral duty of Congress to respect their memorial? Our vote would not bind Congress; but the moral duty to hear the voice of the people, most assuredly would.

In passing the Enabling Act, Congress undoubtedly supposed they were passing an act in accordance with the wishes of a majority of the people. Why? Simply because the delegate from the Territory so represented the case. That delegate, emanating from Saint Paul, and surrounded entirely by men and interests in favor of a north and south boundary line, undoubtedly thought a majority of the people were in favor of a north and south line, What could Congress do, other than to form a judgment upon those representations, and act in accordance with the wishes of the people as expressed through their delegate? There was no other medium through which the people attempted to express their wishes. Now we propose another medium. Now we propose, by an actual vote of the people, to show that our delegate in Congress did not correctly represent the wishes of the people at that time. And after a fair vote shall have been taken, and it shall have been proved that the delegate did not fairly represent the people, would it be anything inconsistent on the part of Congress to change their act and give us an east and west line? Congress acted at first upon the best information they had as to what was the wish of the people. But now, if a majority should say they are in favor of an east and west line, they would have a sure guide to go by, in fact the only sure guide they could possibly have, as to what were the wishes of the majority; and there could be nothing inconsistent in granting it, but it would be right and proper for them so to do, and I believe they would do so. I believe that Congress would not hesitate to give us the division line we might ask for, and that without further question.

Mr. DAVIS. Mr. CHAIRMAN: I do not propose to make another speech upon this question. I do not propose now to discuss the merits or demerits of either side of the question. I wish merely to disabuse the minds of certain gentlemen who suppose the Capitol removal has anything to do with this question. Now I live right in the vicinity of St. Peter, at Traverse des Sioux, whose interests are identical with those of St. Peter, and I know the question of the seat of government does not enter into this matter in the least. I know that our citizens there never expect to get the Capitol in St. Peter, or upon the school section, as provided last winter. They did, at one time, expect the Capitol to be located at St. Peter; but since ex-Governor Gorman, the father of the project, and the man who procured the passage of the bill, deserted them and turned his back upon them, they have not expected to get the seat of government there. If gentlemen will just look at their maps, they will see that St. Peter is not within a hundred miles of the centre of the proposed State. The Capitol, in my opinion, should be near the centre; and St. Peter would be about as near the centre, if the State were divided by the line proposed in the Enabling Act, as if it were divided by the proposed east and west line.

But sir, I will say, that the following are some of the reasons which actuate these people, and lead them to suppose, that an east and west line is for their benefit, as well as for the benefit of the people at large—not merely for the benefit and advantage of the people of the new State, but for those of the Territory to be left out and I will read a newspaper extract:

"Maine has thirty, and Ohio thirty-nine thousand square miles. Maine had a population of one hundred thousand, before Ohio began to be settled. And now, after a lapse of a little more than half a century, we have the following result:

MAINE.

Population,	583,169
Acres of land improved,	2,039,596
Total valuation of property,	$122,777,521
Miles of Railroad,	508

OHIO.

Population,	1,880,427
Acres of land improved,	9,851,493
Total value of property,	$504,756,120
Miles of Railroad,	3,140

"By a comparison of these statistics, it will be seen that the population is as four to one—the improved lands as five to one—the miles of railroad as six to one—and the aggregate wealth of Ohio equal to that of five just such States as that of Maine! An east and west line would give us a State like Ohio; opulent in agriculture, the 'grand 'art, rendering mankind happy, wealthy, and pow-'erful.'"

These, Mr. CHAIRMAN, amongst others, are some of the reasons why a portion of those I have the honor to represent here, prefer an east and west to a north and south line. And I hope, sir, this Capital removal question will not be lugged into this debate again. For one, I am heartily sick of it.

Mr. COLBURN. Mr. CHAIRMAN: I do not propose to discuss this subject. I do not wish to occupy time but to notice one or two things. The only argument against this resolution, which has had the appearance of argument, is that raised by the gentleman from Scott county, (Mr. GALBRAITH,) and that is, that having our seats here in this Convention by virtue of the Enabling Act, he holds that, if we pass this resolution we place ourselves in an inconsistent position, by attempting to legislate for a people outside of the proposed limits. Now, it does not appear to my mind, that we necessarily place ourselves in that position. This proposition proposes to leave a question to be decided by a vote of the people of the Territory; it proposes to leave it to the people of the proposed State——

Mr. COGGSWELL. I suppose that alteration could be made by consent. No objection could be made, certainly.

Mr. COLBURN. In that event, Mr. CHAIRMAN, I cannot myself discover those breakers ahead, which the gentleman from Scott thinks he sees. What is the proposition? Simply to get an expression of the voters of the proposed State, as to their choice between two boundaries; whether they prefer that proposed by Congress, or an east and west line. It is not saying to Congress, that we must come in with an east and west line, or none. As the gentleman from Olmsted has said, we have already accepted another line. But at the same time, we should prefer a different line; and if it should meet the approbation of Congress to make a change, and run an east and west division line, instead of the north and south line, what harm is there in it? There can be no harm done, unless it be to that class of people living west of the line. I do not know whether these people choose the one or the other. They certainly have the right; not because we give it to them, but because they possess it inherently. I cannot see that it can work any evil effect at all. We make the Enabling Act of Congress our basis of action, and stand upon it; but if the people of the proposed State desire a different line, there can be no harm in asking for it; and then it will be for Congress to decide whether injustice will be done to those people outside.

One word in regard to the position taken by the gentleman from Dakota, (Mr. FOSTER.) He says his amendment should be adopted, because, if we are going to leave it to the people, we should give them the largest liberty as to the choice of boundary; and he urges it as a principle. I must confess, that when I heard that declaration, I had some apprehensions—remembering that I belonged to the Republican party, and that the gentleman from Dakota, who made the declaration, and the gentleman from Chisago, (Mr. STANNARD,) who endorsed it, are both members of our Republican Central Committee. It occurred to me, that upon this principle, we, as a party, could have neither organization nor concentration of action, but every man would do just as he pleased; and if that was their principle of action as members of the Republican party, I began to think we should have to talk to our Central Committee.

Another thing. The gentleman from Chisago found fault, because the east and west line would divide his county. But now, the north and south line, which he advocates, divides the county of Pembina, and I am inclined to think the people of that region are opposed to it; and it was but the other day, that both the gentleman from Chisago and the gentleman from Dakota, worked themselves up into a flame of zeal for the rights of these half-breeds, which, they alleged, were going to be interfered with. I commend these things for gentlemen to reflect upon.

The question was now taken upon Mr. FOSTER's substitute, and it was rejected.

Mr. WATSON. Mr. CHAIRMAN: in conformity with the wishes of several members, I offer the following amendment:

Insert, after the word "Territory," these words: "residing within the limits of the "proposed State;" so that it will read: "There shall be submitted to the qualified "voters of the Territory, residing within the "limits of the proposed State, &c."

Mr. LOWE. Mr. CHAIRMAN: I shall vote not to exclude any portion of the people. If we must perform such an act as this, it strikes me that we are bound to allow all the people within the limits to vote. But then, it seems to me that this proposition is the height of injustice. We would be reversing all our action here by the passage of this resolution. It would be stultifying ourselves before the world, by declaring, in effect, that we were wrong in excluding the Pembina delegation; that they ought to be here to day, and have a right to vote here, and we have no right to proceed without their presence. It would be declaring, almost in so many words, that the opinion entertained here in regard to the propriety of excluding those members is entirely unjust; and not only so, but that the position of the Democratic members who have separated from us, is not merely proper, but eminently just.

Some gentlemen have said that if this resolution should be rejected, no harm would be done. But I say, it would go back to the people and annul all the proceedings of this Convention. If there ever was a measure calculated to repudiate our own action, and place all our efforts here in a light of the utmost disgrace and disparagement, it is this.

For myself, Mr. CHAIRMAN, I disclaim any personal feeling in the case. I know a good many of my constituents are in favor of remaining under a Territorial organization. Therefore with reference to coming into the Union, I need feel no material anxiety. But I do feel an interest in this question, on account of the inconsistency involved. It will place us, I repeat it, in the attitude of admitting that our decision in regard to the Pembina delegation has been erroneous, and I know very well the proposition will be sustained in the eyes of the world.

Mr. COGGSWELL. Mr. CHAIRMAN: I understood the gentleman from Scott county to make objection to the language of the resolution, on the ground, that it allows inhabitants residing outside of the limits proposed by the Enabling Act, the privilege of voting.

Mr. GALBRAITH. I stated that we had no right, under our organization, to do any act that was going to be obligatory on those residing outside of our jurisdiction; and also, that the people can have no right to vote on this proposition, who live outside of the boundary proposed.

Mr. COGGSWELL. Whatever, Mr. CHAIRMAN, may have been the object of the gentleman, it is evident that this amendment is intended to prevent the inhabitants who live outside of the limits mentioned in the Enabling act from voting on this question; and also, to prevent those who live out North—and for the purpose of allowing only those to vote who live within the limits proposed in the resolution.

Mr. HUDSON. Mr. CHAIRMAN: I presume we are all anxious to have this matter settled. For myself, as there seems to be a good deal of feeling manifested on one side, and on the other a strong desire that this proposition should be submitted to the people, if it could be submitted in any way that would not contradict what we have already done, in accepting the proposition of the Enabling Act, I for one should not object. But, Mr. CHAIRMAN, I have taken this ground from the start, and I mean to maintain it, if I understand what I am doing. Congress has said to a certain Territory—the people of the Territory of Minnesota—"You may elect "your delegates to a Constitutional Convention, form a Constitution, and be admitted "into the Union as an independent State, on "conditions." But now, when we go outside of that Territory—when we talk about any other line, or any other set of men than those embraced within that Territory, we have got outside of the proposition of Congress, and Congress is no longer bound by it. I understand the case in this way: If A should should offer B a span of horses for two hundred dollars, and B turns round and says to A, "You may have my cattle for them," he virtually rejects the offer, by talking about something else. Congress has said to us, "You may have a State on certain conditions." When we talk about other Territory and other conditions, I fear we are stepping outside, so far as to offer to Congress an excuse

for rejecting us altogether. It has been objected to this proposition, that we are now placed under peculiar circumstances, and if there could be found any excuse, Congress might be willing to avail themselves of it, and reject us. This consideration has been urged, it seems to me, with good reason; and I think we should be very cautious how we proceed in this matter. If I understand the resolution, it reads to this effect, that if this proposition shall receive a majority of all the votes cast for and against it, within the limits of the proposed State—if a majority shall be in favor of an East and West line, then this proposition shall be a part of this Constitution. Well, how far we can safely travel in that direction, seems very doubtful in my mind; and I would like to have the matter laid over for consideration until to-morrow.

Mr. NORTH. Mr. CHAIRMAN: I was just going to move that the committee rise and report the matter to the Convention, with a recommendation to lay it upon the table. My reasons for this motion are, that there are objections to the proposition which it seems, it cannot be now seen how to remedy by amendment. I understood, when this was first brought up, it was to be as a memorial, and not as an amendment to the Constitution. But it will be seen by the language of the proposition, that if the people vote in favor of it, it is to be a change of the Constitution. I am decidedly opposed to that. But if it can be changed so as to make it nothing but a memorial, I can go for it. For the purpose of having that point better considered, I move—

Mr. COGGSWELL. Mr. CHAIRMN: I was about to say, I hope that motion will not prevail.

Mr. NORTH. I withdraw it if the gentleman wants to say anything.

Mr. COGGSWELL. It does seem to me, Mr. CHAIRMAN, that we could dispose of this little amendment in a few moments, and also of the simple proposition of submitting this question to the people. If there was anything in it so hidden and occult, that a man of ordinary capacity could not understand it, I could agree to lay it over day after day; but, when it is nothing but a simple question as to whether a boundary line shall be submitted to the people or not, I think, sir, we ought to have the capacity to decide upon that at once.

As to the language of the proposition, that this boundary is to become a part of the Constitution when it goes to Congress, it seems to me, that it must necessarily be a part of the Constitution, when it shall be ratified by the people. Of course, if the people ratify it, with the Constitution, it is a part of the Constitution, and so it must go to Congress. It must go to Congress just as that proposition went, which was sent up with their Constitution by the people of the State of Wisconsin. It cannot go in any other shape, for the reason, that it has been ratified by the people. If it should not be ratified, then, of course, it is no part of the Constitution; otherwise, it must be a part of the Constitution, and it can go to Congress in no other shape. I hope this thing will be disposed of, and let us go to something else.

Mr. PERKINS. Mr. CHAIRMAN: There has been something said about the language of the proposition that I do not understand. It seems to have some hidden meaning. I do not understand how it is to go before Congress as a part of the Constitution.

Mr. NORTH. It says so in plain language.

Mr. PERKINS. We have already adopted into the Constitution an acceptance of the north and south line; and this proposition, if I understand it, is nothing but a memorial. It goes to Congress as a memorial; but, if accepted by Congress, then it is incorporated into the Constitution, but not otherwise. If that is not the idea, then I am opposed to it in toto.

Mr. NORTH. It says so, in so many words, in the first part of the resolution.

The CHAIRMAN again read the first part of the resolution, as follows:

Resolved, That there shall be submitted to the qualified voters of this Territory, at the same time this Constitution is submitted to them, for their adoption or rejection, the following proposition (or one substantially the same,) and if the same shall receive a majority of all the votes cast both for and against it, then, the same shall be a part of this Constitution and go with the same to the Congress of the United States, to be acted upon by them as they may see proper."

Mr. McCLURE. I cannot vote for the proposition as it now stands. And I wish to help my friends, because they disclaim any idea of making this a part of the Constitution. I cannot for a moment think that the counties

I represent have any interest in the removal of the capital. Nor indeed any railroad interest. We have either fortunately or unfortunately been represented in the Legislature by a man who for some years never saw a railroad car or railroad track, and consequently he has had nothing to do with these little petty railroad frauds at all. (Laughter.) So far as I am concerned, therefore, I am free from any of these little influences which some may be controlled by.

Now the resolution which has been offered by the gentleman from Nicollet, (Mr. DAVIS,) I could be in favor of, could it be amended a little. I intend, at the proper time, to offer this amendment, to strike out the words "then "then the same shall be a part of this Con- "stution &c.," and insert in lieu thereof the words "then the same shall be certified to the "Congress of the United States, as a request "to change the boundary line of the proposed "State accordingly."

I understand that if it is engrafted into the Constitution, as proposed by the resolution, it goes up to Congress as a part of the Constitution. I understand that we have already admitted by the action of this body, that we have accepted of and do accept the boundary proposed by Congress. Now it seems to me that we ought not to incorporate into the Constitution a different line, but, that if a majority of the voters of the proposed State should vote in favor of the boundaries contained in the resolution, it should go to Congress merely as a request that they would change the line so as to make it accord with the wishes of the people so expressed. I am willing to go for that, because I know my friends are really interested in the matter, and that their constituents will not be satisfied with less than a chance to vote in some way upon the matter. But I am unwilling to vote for a proposition which shall incorporate it into the Constitution as a part and parcel thereof.

Mr. COLBURN. I misunderstood the language of the resolution, and before I can vote for it, I shall require that some such amendment as that suggested by the gentleman from Goodhue, shall be adopted.

Mr. DAVIS. I would say to the Convention that the meaning I intended the resolution to convey, was this, that the proposition which was to go to Congress, should be considered as a memorial; or a request in case a majority of the voters of the State should vote in favor of it. If any gentleman will offer to amend it in any way that will satisfy them, and still convey the meaning I intended, I would prefer, as a matter of course, to see it done. I am not tenacious as to the exact language used, only that it gives to the people an opportunity to express their views upon the division line.

Mr. PERKINS. I must say that I have not seen the resolution in print until this moment. I certainly mistook its import, and there must be some amendment, such as has been suggested, before I can vote for the resolution. It is different from what I thought it was. It makes the proposed change a part of the Constitution. As I heard it read, I took it to be a mere memorial to Congress to change the line, and that if Congress should see fit to do so, then, and not till then it was to be a part of the Constitution.

Mr. DAVIS. Such was my intention.

Mr. BOLLES. I move that the committee now rise. We are involved in difficulty about the matter, and we can not vote for it as it now stands, although we might if it was changed somewhat. We can go back into Convention, and then refer it back to the mover, to make such modification of it, as will meet the views which gentlemen have expressed. I will move that the committee will rise and report the resolution back with a recommendation that it be referred back to the original mover of the same, to report such amendment to it as he sees proper.

The motion was agreed to, and the committee rose and reported back the resolution with the recommendation of the committee.

The recommendation of the committee was then concurred in, and the resolution was handed to the mover (Mr. DAVIS).

And then, on motion of Mr. KING (at twelve o'clock and fifteen minutes) the Convention took a recess until half past two o'clock.

AFTERNOON SESSION.

The Convention was called to order at half-past two o'clock.

On motion of Mr. MANTOR,—

"*Ordered*, That all engrossed reports be printed immediately for the use of members, preparatory to their third reading."

FINAL ADJOURNMENT.

On motion of Mr. COLBURN, the following resolution was taken from the table and read, and considered, viz:

"*Resolved*, That this Convention adjourn without day on Thursday the thirteenth instant."

Mr. COLBURN. I move the adoption of the following substitute for the resolution:

"*Resolved*, That this Convention adjourn without day on Saturday the fifteenth instant."

Mr. HARDING moved to amend the substitute by adding thereto the words "at twelve o'clock M."

The amendment was lost.

Mr. COLBURN. I will merely say that it seems to me that we may be able to get through with our business on Saturday night. If it is generally understood that that time is fixed upon for adjournment, the various committees which have business yet to do, will attend to it with reference to adjourning at that time. We shall have to fix upon some definite time and it may as well be done now as hereafter.

The substitute was adopted.

Mr. MORGAN. I now move that the resolution as amended be laid on the table.

Mr. COLBURN. I hope the motion will not prevail. I am aware that some of our members are determined to leave on Saturday night whether the Convention adjourn or not, and that is the reason which has induced me to try to get through with our business at that time. If anything should occur by which it should be found to be absolutely necessary for us to remain here longer, it will be competent for the Convention to rescind the resolution when that fact is ascertained. But I think there will be no necessity for that if each member works with reference to an adjournment at that time.

Mr. COGGSWELL. I hope the resolution will be adopted. (Cries of "no" "no.") I sincerely hope that we shall all act with the intention of being ready to adjourn at that time. It seems to me that we can just as well be ready to adjourn at that time, if not at an earlier day, as we can be six months hence. I am well aware that there are some members who would as soon remain here all summer as not. Perhaps it is not necessary to call names. But I am satisfied from the action of certain men that they would as soon remain here as not. I am myself anxious to go home, and am bound to go home, Constitutional Convention or no Constitutional Convention. And this idea of waiting, and especially waiting on the action of our political enemies, I do not like. I know, that so far as our own business is concerned, we can transact it by that time. I hope the resolution will pass, and that we shall all apply ourselves to our work rigorously, and be ready to depart by Saturday night.

Mr. SECOMBE, called for the yeas and nays upon the resolution, to lay the resolution on the table.

The yeas and nays were refused.

The motion to lay upon the table was not agreed to.

Mr. PERKINS. I wish to say a word before the vote is taken upon the resolution. I am probably as anxious to go home as any member of this Convention. I have got rather sick of sitting here, and desire to go home as badly as my friend from Steele County (Mr. COGGSWELL). But notwithstanding all this personal anxiety, I am inclined to sit here until our business is disposed of, if it takes six months longer. I am not disposed to tie up the hands of this Convention so as to oblige it it to suspend its work next Saturday whether we get through that time or not. We have already spent five weeks here and it would be extremely foolish to close our labors and go home before we had accomplished what we were sent here to do. We may have to sit two or three days longer and perhaps a week. If we do, let us be in a condition that we can do it. And even if it should require six months longer time to complete a Constitution as we would be willing to submit to our constituents let us take that time to do it—though at a personal sacrifice.

Mr. WILSON. I move the previous question. I do not want to discuss a resolution which amounts to nothing anyway.

The previous question was seconded and the main question ordered to be put; and under the operation thereof, the resolution was agreed to.

ELECTIVE FRANCHISE.

On motion of Mr. CLEGHORN, the Convention resolved itself into a committee of the Whole, (Mr. ALDRICH in the Chair) upon

report number nineteen, from the committee on Elective Franchise.

The report was read as follows:

"At the same election that this Constitution is submitted to the people for its adoption or rejection, a proposition to amend the same by striking out the word 'white' from article —, section one, on the 'Right of Suffrage,' shall be separately submitted to the electors of this State for adoption or rejection in the manner following: A separate ballot may be given by every person having a right to vote at said election, to be deposited in a separate box; and those given for the adoption of such proposition shall have the words, 'shall the word 'white' be stricken out of the article —, section one, on the 'Right of Suffrage?' Yes.' And those given against the proposition shall have the words, 'Shall the word 'white' be stricken out of article —, section one, on the 'Right of Suffrage!' No.' And if, at said election, the number of ballots cast in favor of said proposition shall be a majority of all those cast on that subject, the said word 'white' shall be stricken from said article, and be no part thereof."

Mr. MORGAN. I move that the committee rise and report back the resolution without recommendation.

The motion was agreed to, and the committee rose and reported accordingly.

Mr. McKUNE. I move that the report be laid on the table in order to allow us to take up the unfinished business of this forenoon.

The motion was not agreed to.

Mr. SECOMBE. I move that the report be referred to the committe on the Schedule, with instructions to incorporate such a provision in the Schedule.

Mr. COGGSWELL. As one of the members of that committee, I hope the motion will not prevail, for the reason that that committee have more upon their hands now than they can possibly act upon. If you are going to heap any more burdens upon that committee, you had better add some members to that committee, or take some away from it who are as lazy as I am.

Mr. KING. It appears to me that upon reading this article, that it cannot be voted upon at all at the next election. Our present election laws require that all votes cast shall be upon one ballot, while this article proposes that this question shall be voted on, on a separate ballot. I have an amendment to offer, which, I think, will obviate that difficulty.

The PRESIDENT. The motion to refer is first in order.

The question was taken, and the report was referred to the committee on the Schedule, with instructions to incorporate it into the Schedule.

BOUNDARY OF THE STATE.

Mr. DAVIS, to whom was referred the boundary resolution, this morning, reported the same back to the Convention, modified as follows:

"*Resolved*, That there shall be submitted to the qualified voters of this Territory, at the same time this Constitution shall be submitted for their adoption or rejection, the following proposition, (or one substantially the same;) and if the same shall receive a majority of all the votes cast for and against it, then the same shall be certified to the Congress of the United States, as the wish and request of the people to change the boundary line of said proposed State accordingly.

"*Proposition.*—That the following alteration in the boundary line mentioned in the act entitled 'An act to authorize the people of Minnesota to form a Constitution and State Government preparatory to their admission into the Union on an equal footing with the original States,' approved March third, 1857, is desired by the people of the said State of Minnesota; and if the same shall be assented and agreed to on the part of the Congress of the United States, then the same shall become a part of the Constitution of said State of Minnesota, and shall be and forever remain obligatory upon the State."

Then follows the boundaries proposed as contained in the resolution as originally reported.

Mr. COGGSWELL. I wish to say that I am a friend of this East and West line. I am in favor of submitting this question to the people; and I am in favor of having this proposition, when it has been submitted to the people, and when it has been ratified by them, become a part and parcel of the Constitution, and go to Congress as such. But I am not in favor of that resolution, as it now stands. I wish to ask who it is that can certify that preference, that wish, that desire, which the people may express. How can it be certified to Congress? And after you have certified it to Congress, what does it amount to? Even after Congress has granted the prayer, the wish, and the desire of inhabitants of this Territory, then what is it? It seems to me that the resolution, as it now

stands, amounts to nothing. It is not good as a memorial. It is not as good as a resolution to be passed by this Convention, and for one I am decidedly opposed to it. I want it in such a shape that when it has been ratified by a majority of the voters of this State, and when it has been assented to by Congress, it shall form a part and parcel of the Constitution of the State of Minnesota. With that view, I move that the resolution lie upon the table until to-morrow, and in the meantime I will prepare an amendment.

The motion was agreed to.

NEGRO SUFFRAGE.

Mr. COGGSWELL. I understand that the resolution which I offered the other day, upon the subject of submitting to the people the question of negro suffrage, was not referred to the committee on the Schedule, and as I desire to have a vote to know whether it is the intention of this Convention to have such a question submitted or not, I move to take that resolution from the table, and consider it at this time.

The motion was agreed to.

The resolution was read as follows:

"*Resolved*, That there shall be submitted to the qualified voters of this Territory, at the time this Constitution is submitted to them for their ratification or rejection, the following proposition, and if it shall receive a majority of all the votes cast, both for and against it, then it shall become a part and portion of the Constitution; otherwise it shall be absolutely null and void.

"*Proposition* 1. Every male person, of either mixed or full African or Negro blood, of the age of twenty-one years and upwards, and who shall have resided in this State six months next preceding any election, and in the town, precinct, or ward in which he claims the right to vote, ten days next preceding the same, shall be deemed a qualified elector, and shall have the right to vote for all officers which may be elected by the people."

Mr. SECOMBE. We have already referred a resolution of this nature to the committee on the Schedule, with instructions to incorporate such a provision into the Schedule.

Mr. COGGSWELL. The gentleman probably refers to the action of the Convention this morning. Now I apprehend that that has nothing to do with the resolution now before the Convention. As one of the committee on the Schedule, I would like to have the sense of this Convention taken in reference to this subject, and I do not know of any better way of taking that sense, than by a direct vote upon the passage of this resolution.

Mr. ALDRICH. Has not this Convention this very afternoon adopted a similar resolution and referred it to the committee on the Schedule, with instructions to incorporate the same into the Constitution as a part and parcel of it? If the gentleman merely wishes to ascertain the sense of the Convention I have no objection to voting on the resolution.

Mr. COGGSWELL. I wish to say that in my judgment a proposition of the character of the one I have offered would have an entirely different effect, provided it were adopted, than would the striking out the word "white" from the article on the elective franchise. I apprehend that by striking out the word "white," from that article, it might affect a class other and different from the negro, and inasmuch as I desire to have this question of negro suffrage submitted separately and distinctly and submitted upon its own merits, entirely disconnected with the rights of the Indian, the Chinese, or the rights of any body else who may have a little color in their skin, I wish a vote taken upon it by the Convention. If I recollect the way and manner in which the article on the elective franchise now stands, the striking out the word "white" would have entirely a different effect from the adoption of this proposition. For that reason I want the sense of the Convention upon it.

Mr. MORGAN. We have just acted upon one proposition, which was to be submitted to the people upon the subject of negro suffrage, and I did not suppose that it would come up in any other form. I do not understand now whether it is proposed to submit that resolution as a separate proposition, distinct from this, and as a second proposition, or whether it is to be substituted for the proposition already adopted. If it is to be submitted just in the manner proposed, it seems to me that it ought to be printed and laid before the Convention in a shape in which it could be examined.

Mr. SECOMBE. As remarked by the gentleman who has just taken his seat, this matter has been disposed of to-day, and I therefore move that the further consideration of this resolution be indefinitely postponed.

Mr. COGGSWELL demanded the yeas and nays.

The yeas and nays were refused.

The question was then taken, and the motion to postpone indefinitely was agreed to.

Mr. SECOMBE moved, (at three o'clock) that the Convention adjourn.

Mr. GALBRAITH. If the gentleman will withdraw his motion I will move that we take a recess for an hour.

Mr. SECOMBE. I will withdraw my motion.

Then on motion of Mr. GALBRAITH, the Convention took a recess until four o'clock.

The Convention re-assembled at four o'clock.

COMMITTEE OF CONFERENCE.

Mr. COLBURN offered the following resolution:

"*Resolved*, That the Secretary of this Convention is hereby directed to communicate to the presiding officer of that portion of the delegates to the Constitutional Convention assembled in the council chamber of this Capitol, an attested copy of the Preamble and Resolution in reference to a committee of conference adopted on the tenth inst. and the official action of this Convention thereon.

Mr. SECOMBE demanded the yeas and nays upon the passage of the resolution.

The yeas and nays were refused.

The resolution was then adopted.

And thereupon, on motion of Mr. FOSTER, the Convention adjourned.

TWENTY-SEVENTH DAY.

WEDNESDAY, August 12th, 1858.

The Convention met at 9 o'clock, A. M.

Prayer by the Rev. Mr. MATTOCKS.

The journal of yesterday was read and approved.

REPORTS.

Mr. MANTOR, from the committee on Engrossment reported back as correctly engrossed, report No. eighteen, on the Judiciary Department.

Mr. SECOMBE, from the committee on Public Property made the following report which was read a first and second time and laid upon the table to be printed, viz:

"SEC. 1. The State shall have concurrent jurisdiction on the Mississippi, and all other rivers and waters bordering on this State, so far as the same shall form a boundary to this State and any other State or States, now or hereafter to be formed or bounded by the same, and said river and waters leading into the same, shall be common highways, and forever free, as well to the inhabitants of this State as to all other citizens of the United States, without any tax duty, import or toll therefor.

"SEC. 2. The people of the State in their right of sovereignty, are declared to possess the ultimate property in and to all lands within the jurisdiction of the State; and all lands the title to which shall fail from a defect of heirs, shall revert or escheat to the people.

"SEC. 3. The title to all lands and other property which has accrued to the Territory of Minnesota by grant, gift, purchase, forfeiture, escheat or otherwise, shall vest in the State of Minnesota.

"SEC. 4. The proceeds of all lands that have been or may hereafter be granted or set apart and reserved by the United States to the Territory or State of Minnesota, for the use and support of a University, shall be and remain a perpetual fund to be called the 'University Fund,' which shall be appropriated to the use and support of the 'University of Minnesota,' incorporated by an act of the Legislative Assembly of the said Territory, and for no other purpose, in such manner as the Legislature of the State shall prescribe, in accordance with the provisions of the said act of incorporation, and not otherwise.

"SEC. 5. The proceeds of all lands that have been or may hereafter be granted to the State for the purpose of completing the public buildings, or for the erection of others at the seat of government shall be appropriated for the said purpose exclusively, under the direction of the Legislature of the State, and not otherwise.

"SEC. 6. The proceeds of all salt springs and lands adjoining or contiguous thereto, that have been or hereafter may be granted to the State for its use, shall be appropriated to the use of the State, to be used or disposed of on such terms, conditions and regulations as the Legislature of the State shall direct, and not otherwise.

"SEC. 7. The five per centum of the net proceeds of sales of the public lands lying within the State, which shall be paid to the State for the purpose of making public roads and internal improvements shall be appropriated for the said purpose exclusively, as the Legislature of the State shall direct, and not otherwise.

"All of which is respectfully submitted."

BOUNDARIES OF THE STATE.

Mr. COGGSWELL. I move that the resolution offered by the gentleman from Nicollet, (Mr. DAVIS) which was laid over yesterday, be now taken up.

The motion was agreed to and the resolution was again read to the Convention.

On motion of Mr. COGGSWELL, the Convention resolved itself into a Committee of

the Whole, (Mr. THOMPSON in the Chair,) upon the resolution just taken from the table.

(For resolution, see proceedings of Monday and Tuesday.)

Mr. COGGSWELL. I move to strike out all after the word "it," in the thirteenth line, and insert the following: "Then the same "shall go to the Congress of the United States "with this Constitution, and, if assented to "by Congress, then the same shall be a part "of said Constitution, and binding upon the "people of the State of Minnesota, without "any further act upon their part"—

So that the whole clause shall read as follows:

"*Resolved*, That there shall be submitted to the qualified voters of this Territory, at the same time this Constitution shall be submitted for their adoption or rejection, the following proposition, (or one substantially the same); and if the same shall receive a majority of all the votes cast for and against it, then the same shall go to the Congress of the United States with this Constitution, and if assented to by Congress, then the same shall be a part of said Constitution and binding upon the people of the State of Minnesota without any further act upon their part."

The amendment was rejected.

Mr. FOLSOM. I move to amend by striking out all after the words, "main channel "of the Mississippi river," and insert, "until "it is intersected by the parallel of forty-five "degrees north latitude, thence west on said "parallel of latitude until it intersects the "Missouri river at the place of beginning."

Mr. MORGAN. We had this resolution before us day before yesterday and yesterday, and after a long discussion it was ascertained that members did not understand what the proposition was, as it was not in print. The true state of the proposition was only accidentally made known to the committee by a reference to the newspapers. We have it up before us again, and it has not been printed. To avoid errors, and the unpleasant predicament in which we found ourselves the other day, I move that the committee rise, report back the resolution to the Convention with a recommendation that the same be printed.

The motion was agreed to.

The committee accordingly rose, and reported the resolution to the Convention, with the recommendation of the committee.

The question being upon ordering the resolution to be printed—

Mr. COGGSWELL said: I think, Mr. PRESIDENT, that every member of this Convention must necessarily know that, in the first place, it is entirely useless to order that resolution printed; and in the next place, that it is only a mode which has been adopted by the enemies of this resolution, to stave the thing off; for we know that, in the present state of our printing, the resolution will not be printed and laid upon our tables until the time arrives which we have fixed for adjourning. And I want the friends of this measure to understand what is intended by this movement. I call for the yeas and nays upon the question of ordering the resolution to be printed—for that, in substance, is the recommendation of the Committee of the Whole.

The yeas and nays were ordered, and the question being taken it was decided in the affirmative—yeas 25, nays 22, as follows:

Yeas.—Messrs. Aldrich, Anderson, Baldwin, Bates, Bolles, Butler, Cederstam, Coombs, Eschlie, Foster, Folsom, Galbraith, Hayden, Hudson, Hanson, Lowe, Messer, Morgan, North, Peckham, Russell, Stannard, Sheldon, Vaughn, and Winell.—25 votes.

Nays.—Messrs. Bartholomew, Billings, Colburn, Cleghorn, Coggswell, Davis, Duley, Dickerson, Harding, King, Lyle, Mantor, McCann, McKune, McClure, Mills, Phelps, Secombe, Thompson, Watson, Wilson, and the President.—22 votes.

So the recommendation was concurred in.

Mr. BUTLER. I move to reconsider the vote by which the Convention ordered the resolution to be printed.

Mr. HAYDEN. I move a call of the House.

A call of the House was ordered, and the roll being called, the following members failed to answer to their names:

Messrs. AYER, BARTHOLOMEW, GERRISH, HALL, HOLLEY, KEMP, and MURPHY.

Mr. COLBURN moved that all further proceedings under the call be dispensed with; which motion was not agreed to.

The Sergeant-at-Arms was directed to report the absentees in their seats.

After an interval of fifteen minutes—

Mr. HAYDEN moved to reconsider the vote by which the Convention refused to suspend all further proceedings under the call.

The motion to reconsider prevailed, and then all further proceedings under the call were dispensed with.

The question was then put upon the motion to reconsider the vote by which the Convention ordered the resolution, offered by Mr. DAVIS, to be printed; and the motion to reconsider prevailed.

The question then recurred upon the motion to print, and being put it was not agreed to.

The resolution was then before the Convention for amendment or adoption.

Mr. MORGAN. I rose and addressed the Chair before the motion to print was put. I wished to give some reasons why I made the motion to have the proposition printed.

The PRESIDENT. The Chair was not aware that the gentleman addressed the Chair.

Mr. MORGAN. It is very clear that members of the Convention did not understand the question when it was put, from the fact that nobody voted for it; when it is well known that there is a large number, if not a majority here, who desire to have this resolution printed.

Mr. HARDING. I move to reconsider the vote by which the Convention refused to order the resolution to be printed.

Mr. COGGSWELL. I do hope that this resolution will be disposed of to-day. If it is the desire of this Convention to kill it, I want them to do it like men. Let them come up like men and vote right plump against it. I dislike this method of getting up motions which will have the same effect, and behind which gentlemen undertake to shield themselves from public ignominy. As one of the representatives of a district deeply interested in this matter, I ask that this resolution may be passed; I ask, too, that it may be passed or the reason that it is carrying out a Republican principle; I ask that it may be passed for the reason that I know that it will enhance and increase the interest of the Republican party. But if it is the wish and desire of the members of this Convention to knock it in the head, I desire that they shall come up like men, in open daylight, and do it.

Mr. FOSTER. I desire to offer a substitute.

The PRESIDENT. The motion before the Convention is a motion to reconsider.

Mr. MORGAN. I stated that I wanted to offer some reasons why I thought this document ought to be printed. At the commencement of our session we adopted a general rule that all reports emanating from committees, however unimportant they might be, should be printed. Now here comes before us a proposition which it is proposed to make a part of our Constitution in a certain contingency, and which is to be submitted to the people to be voted upon by them. It comes before us in manuscript, and we only hear it read. It seems to me to be eminently proper that every proposition which is proposed to be submitted to the people of the Territory, and which, in a contingency, may become a part of the Constitution, should be printed and laid before members, that they may examine it, and see all its bearings. It is no more than a matter of courtesy to members of this body that they should have before them, in printed form, all the propositions upon which they are expected to act. It is a courtesy which is usually extended in such cases, and ought not to be denied. The pretence which has been stated here, that this motion is made for the purpose of staving off action, is entirely without foundation, in fact. As I stated before, we had this proposition before us in another form on Monday last, and the occurrences of that day ought to teach the gentleman from Steele county that such a motion as this is eminently proper, to say the least of it, if not absolutely necessary. It became evident, after a long debate, that members did not understand what the resolution was, and they admitted that it was so, and it arose from the fact that they had only heard it read from the clerk's desk. Now it comes before us again, in amended form, and it has not been printed. It is very important that every proposition should be thoroughly understood by members, and we cannot understand the precise bearing of this matter just from hearing it read. And allow me to say here, that most of the mistakes which are committed, and the frauds which are perpetrated, in legislation, have been brought about by a failure of having matters printed which come before legislative bodies.

I therefore hope that the vote by which the Convention refused to order the resolution to be printed will be reconsidered, and then that the motion will be adopted.

Mr. BOLLES. I wish to say in reference to my vote upon this matter, that I had no disposition to delay the consideration of this resolution, or to stave it off, and finally to defeat it. The gentleman from Steele will recollect that I have told him repeatedly that when the proposition came before the Convention in a proper shape, so that I could vote for it understandingly, I would do so most heartily and cheerfully. It will be recollected, that day before yesterday, after a long discussion, and as we were about coming to a vote, it was discovered that the resolution, if adopted, would have knocked our acceptance of the Enabling Act in the head, and we should have been just where we were before we left home, so far as our connection with Congress is concerned, because we should have left it an open question whether Congress would accept it or not. Men may not view that matter in the exact light that I do; but I think I view it in a correct light, and therefore I moved to refer it back to have it altered. The report came back to us yesterday amended, and amended in a manner satisfactory to me, and was laid over until to-day. To-day it comes up and another alteration is made or proposed, emanating from the friends of the resolution. Now I do not profess to be particularly skilled in discussing technicalities, but I think that gentlemen have not acted perfectly upright in this. I did suppose that in the first instance when the matter was referred back to the gentlemen who offered it, that he would consult with his friends, and that they would get up something which they themselves could stand by and which we could understand without difficulty, if they wanted us to act upon the resolution without having it printed. Why could they not get up a thing which we could understand and which there could be no mistake about? and not come here, after having done what they have, and charge us with a disposition to stave off and defeat a matter which they have at heart. I am perfectly willing that the question should be submitted to the people, and I hope that all those individuals who have not interest enough in a north and south line to vote upon it, will be defeated. I think it is a question which is important enough to call out a vote. I am willing that these gentlemen shall have a vote, and do their best; and may the party, which does not feel interest enough to go into the field and fight the battle, be defeated. I have no personal feeling upon the subject. I vote for the proposition as a matter of accommodation, just as I would in any other matter in which I had no personal feeling, and in which there was no principle at stake. But I want to vote for a proposition properly worded and guarded, and I do not want to be charged with making an attempt to stave off a matter for which I intend to vote. I repudiate the charge entirely.

Mr. COGGSWELL. I wish to say a few words in regard to the statement made by the gentleman concerning discoveries which he made yesterday; or discoveries that anybody else made—if that suits him any better—of certain language, which, if adopted, would have knocked us a "kiting," as he says. I hold in my hand the first part of that resolution, and I will read it, and then see how far it would have knocked us up. The language is this:

"And if the same shall receive a majority of all the votes cast, both for and against it, then the same shall be a part of this Constitution, and go with the same to the Congress of the United States, to be acted upon by them as they may see proper, &c."

Now I pretend to say that that was in the right, the proper, and the correct language; and I pretend to say that if it had passed in that shape, instead of embarrassing our admission into the Union, it would have forwarded that object; that instead of prolonging the time before we should come into the Union as a State, in my judgment it would have shortened it. Now when we come to look into the Constitution of Wisconsin, we find there ten thousand times stronger language than this, and we find it there to-day as a part and portion of her Constitution—a provision which in its language is a great deal stronger than that which is used here; and yet it did not embarrass her admission into the Union as a State. But we have some remarkably wise men in our Convention—men who possess a great deal more wisdom and sagacity than the men who framed the Constitution of Wisconsin. They did not suppose when they were incorporating into their Constitution language a great deal stronger than this, that it would embarrass their admission into the Union at all. Not by any

means. They framed their Constitution under an Enabling Act substantially like ours, and which prescribed their boundaries just as ours does ours. Now I pretend to say that all this hue and cry raised about this matter is for effect. I say that that language, if adopted would hasten the time of our admission into the Union, for I know of 20,000 inhabitants of this Territory who are deeply interested in this question of the boundary line, and I know that unless their rights are respected, the Republican party, who are trampling upon their own principles, will be sufferers.

So far as I am concerned I do not desire to insert any language into the resolution which would embarrass our admission into the Union, and I dislike very much that gentlemen should rise here, and insinuate substantially that I undertake to play a trick by inserting language, which will have a tendency to keep us out of the Union for a considerable time to come.

Mr. NORTH. It seems to me that remarks which throw out flings about the wisdom of men who occupy seats in this Convention, are uncalled for. If some of us choose to differ with those who drew up this resolution, and if we entertain the idea that it really does contain language which would have an injurious effect upon our interest, I don't know that we should have taunts thrown out that we are not as wise as the men who framed the Wisconsin Constitution. We may be and we may not be as wise, but whether we are or not, I do not know as that is a question which we need contend about at this time.

It seems to me there is a great deal of unneccessary effort on the part of some gentlemen from certain portions of the Territory to place themselves right before their constituents, and that there is unnecessary haste in this matter. I would like to accommodate those gentlemen who desire that this question shall be submittted to the people, and if it can be done in such a form as to make it entirely safe, it seems to me that no harm can be done by it,—no more than this, that it would make it incumbent upon us, who are in favor of a North and South line, to fight that battle; and if those who are in favor of an East and West line, fight as hard, we might be brought into conflict throughout the campaign. But it seems to me that if this matter is delayed a little, and we await the action of the Conference Committee, the thing can be settled without any difficulty whatever. With that view, and for that purpose I voted to have the resolution printed. It seems to me that if we await the result of present negotiations about submitting one Constitution, that might inflence our conclusions very much about the propriety of submitting this question to the people. But at any rate, it seems to me that the form of this memorial should be well considered, and that gentlemen should have an opportunity to know what they are called to vote upon, and that when they do raise objections they should not be called very foolish, if they do chance to differ with other gentlemen in reference to it.

Mr. WILSON. The last argument I ever heard of being brought up in favor of any cause, is that some gentlemen are not capable of understanding some thing, and had been misunderstood heretofore, and may be again. Whose fault is it that they did not understand the meaning of the resolution? Are we bound to go round and interpret it to them, or to bring up something which we know they can understand? Those who can not understand this, will never understand anything. If it is through inadvertence, it is their own fault, and not ours.

That any person tried to deceive, so far as I am concerned, I know of no such thing, and I believe there was no such thing. I prefer to vote here, and now, and have this thing settled. I do not want to discuss it further, nor do I want insinuations thrown out that there was an intention to deceive. It is a short matter, plainly written and plainly worded, and if gentlemen do not understand it now, it can be read again. I have never seen it at all, but I have heard it read, and I do not believe there is any thing intricate in it.

Mr. MESSER. Perhaps the gentleman trusted more to the remarks of gentlemen upon that side than to the resolution itself; and if we had trusted to them, no one would ever have mistrusted that there were any such ideas contained in the resolution, as were found to be contained in it. They asked of us merely that we should let this question go

to the people that they might vote upon it and that then it should be a memorial, a mere request to Congress. Instead of that we found, that if it received a majority of the votes of the people, it was to be part and parcel of the Constitution. In that respect gentlemen found that they had been mistaken. I think it arose from the fact that they relied upon the remarks of gentlemen, and not upon the resolution itself. And I cannot understand why gentlemen, who have urged upon the Convention that this should go before the people, and go up to Congress as a request merely, detached entirely from the Constitution, should now change about and introduce an amendment which will make it a part of the Constitution. If all they desire is that it shall go simply as a memorial and request to Congress why not adopt the amendment suggested by the gentleman from Goodhue county, (Mr. MCCLURE.)

Mr. WILSON. I want it fully understood that I never spoke of making it anything but a mere request, and not a part of the Constitution. I never thought of any such thing, and never used any language that could be construed into any such meaning.

Mr. PERKINS. I spoke yesterday in favor of the passage of this resolution, and I am one of those who really did misapprehend the import of the resolution; and I think if any one will take the trouble to read the remarks of the mover of the resolution as reported in some of the papers, he will see that the impression that gentlemen conveyed is different from that conveyed by the resolution itself. Now while I was willing to vote for such a resolution as I supposed that to be, it was not because I have any personal anxiety about the matter, but because I was willing to accommodate my friends and the people of southern Minnesota. If they wish to vote upon a proposition of that kind, I was willing to afford them the opportunity; and the only privilege which I thought ought to be extended to them in this case, was that they should vote upon what was substantially, a memorial to Congress, asking them to change the boundaries. If Congress saw fit to grant the request, then the propriety of having that change put into the Constitution must be manifest. I supposed that that was all the resolution contemplated, but when I came to see it in print, I saw immediately that a different idea was expressed by it; that it was to become part of the Constitution before it went to Congress. It seems to me that that would be undoing what we have before done. That I did not propose to do. Now I do not claim to have any great powers of comprehension, and I admit that I was a little mistaken in that respect. Now I would like to see the resolution printed before I vote upon it, or before the Convention take any action upon it. It seems to me that a matter of so much importance as this ought not to be acted upon with precipitation, and it seems to me that the advocates of this resolution, who feel so deep an interest in it, are injuring their cause by too great precipitation. I certainly am not willing to go to the extent they desire. If they wish to hasten the thing through, let them go ahead, but do not blame us for not voting for it. For one I want to see the resolution printed, and I want members to see it in print. When gentlemen say that I am endeavoring too kill this resolution by indirect means, they charge that which is false. I am willing that the people should have a chance to vote upon this question, that it may be submitted to Congress, and if Congress sees fit to respect the wishes of the people in that respect, they may do so and incorporate it into the Constitution, and not before. That is as far as I desire to go. I think there will be time enough to print and lay this resolution before the Convention. I do not think we shall adjourn under three or four days, to say the least.

Mr. HUDSON. As an individual member of the Convention, I am not anxious to extend to the people the privilege of saying whether they will have any other State than that proposed to us by Congress. Certain gentlemen have manifested a great deal of feeling upon this subject, and I have expressed my willingness to aid and assist them, provided always that it could be done in a way, not in any wise to embarrass our application for admission into the Union. I do not know but I may be very dull of comprehension, but it is not by any means clear to my mind that we can say to Congress that we accept of their proposal contained in the Enabling Act, and at the same time a proposition for something different. It looks to me very

much like the case of the man who offered a thousand dollars to any person who was perfectly contented with his condition. Presently a claim was made for the money. "Are you contented?" "Certainly I am." "Well then what do you want of the thousand dollars?" If we are willing to accept of the line proposed by Congress, Congress may well ask us what we want of a different line. I believe it is the right of Congress to dispose of the Terriries as she thinks best, and it is their particular business so to cut them up as will be best for the country at large. They have had an eye to the formation of other States, in carving out this particular State of Minnesota.

Now I say it must be perfectly clear to my mind that we are not taking any course which will embarrass us, or our Constitution, before I can vote for this resolution. I am satisfied in my own mind that it will have no other effect than to tickle the constituents of certain gentlemen, for I am satisfied that a majority of the people of the Territory are opposed to it, and that Congress would grant no such request.

Mr. DAVIS. I do not believe we can get this resolution printed in time to act upon it before we adjourn, and I believe it is the intention of some gentlemen to kill it by delay, in that way.

The question was then taken on the motion to reconsider the vote by which the Convention refused to order the resolution printed, and it was lost.

Mr. FOSTER. I now offer the following substitute for the first part of the resolution:

"The people are hereby authorized to vote on a separate ballot, for such boundary line for the State of Minnesota as they shall desire; and if a majority of all the votes cast for and against the Constitution shall be in favor of a different boundary line from that prescribed in the first article of this Constitution, the said vote on being certified by the Governor of the State to both Houses of Congress, shall be the memorial of the people of Minnesota asking Congress to modify the boundary line of Minnesota in the manner and form indicated as aforesaid by the votes of a majority of the people."

Mr. COGGSWELL. I wish to inquire if that is not precisely, or substantially the substitute which was offered yesterday for this same resolution, and if so, whether it is not out of order to offer the same amendment a second time?

The PRESIDENT. The Chair's recollection is that it was offered in committee of the Whole, but that it has never been offered in Convention.

Mr. FOSTER. That is the fact.

The PRESIDENT. It is then in order.

Mr. KING. I move to lay that substitute on the table.

Mr. FOSTER called for the yeas and nays.

The yeas and nays were ordered, and the question being taken it was decided in the affirmative, yeas thirty-two, and nays nineteen, as follows:

Yeas.—Messrs. Aldrich, Anderson, Baldwin, Bartholomew, Billings, Bolles, Butler, Colburn, Coggswell, Coe, Coombs, Davis, Duley, Dickerson, Hayden, Harding, Hudson, King, Lowe, Mantor, McCann, McKune, McClure, Mills, Perkins, Peckham, Robbins, Secombe, Thompson, Watson, Wilson, and the President.—32.

Nays.—Messrs. Bates, Cederstam, Eschlie, Foster, Folsom, Galbraith, Gerrish, Hall, Hanson, Lyle, Messer, Morgan, North, Phelps, Putnam, Russell, Stannard, Vaughn, Walker, and Winell.—20.

So the substitute was laid on the table.

Mr. THOMPSON. I move that the resolution be laid on the table and made the special order for to-morrow afternoon.

Mr. COGGSWELL. It will be recollected by members of this Convention that we have voted to adjourn on Saturday next. Something has been said here in regard to the committee of Conference which is in anticipation of being appointed by the Convention which is now sitting in the other end of the Capitol, and inasmuch as reference has been made to that subject I wish to say a few words. Now if a committee of that character is appointed and that committee should meet the committee we are about to appoint, I suppose it is generally understood that the committee which is appointed upon our part should have all the substantial parts and portions of our Constitution ready to be taken into consideration by that joint committee; that is to say, "go-betweens" who have had conversations with me on the subject, have stated that it was wisdom that our committee should have, at the time they meet the other committee to take into consideration the matters referred to them, all the parts and portions of our Constitution. Well then if that is necessary, I desire that they shall have this particular subject matter before them, and that they

should have the negro suffrage subject, and all other subjects which it is proper to submit to the people in any way shape or manner. And if a committee of that character is appointed by that body, in my judgment it will be appointed to day; and if it is appointed to-day, as a matter of course, the two Committees can meet to-morrow; and if they are to meet at all, it does seem exceedingly desirable that they should meet as soon as that time. Now if we postpone this resolution until to-morrow, as a matter of course that committee cannot have it to present to the other committee. It seems to me that we can dispose of this matter now just as well as at at any other time; and that there are other matters which should be taken up, and as soon as they are taken up, that they should be disposed of. If we are going to adjourn when we have proposed, we should do some business before that time. But if we go on in this way, when Saturday comes around, we shall have as much business before us as we have to-day.

Mr. COLBURN. I hope the motion will not prevail, though not particularly for the reasons offered by the gentleman from Steele county.

Mr. MORGAN. I rise to a question of order. This is a motion to lay upon the table and is not debatable.

The PRESIDENT. The Chair considers the point of order well taken, and must rule that debate is out of order.

Mr. WILSON. Is not a motion to lay upon the table until a specific time, debatable?

Mr. COLBURN. I was about to suggest that the motion was not a simple motion to lay upon the table.

The PRESIDENT. In the opinion of the Chair a motion to lay a resolution on the table and make it a special order for a particular time would be debatable; but a simple motion to lay upon the table would not be.

Mr. COLBURN. I was about to say that I did not desire action upon this matter for the same reason as that suggested by the gentleman from Steele county, for I am opposed to predicating any action in this Convention upon any anticipated action of any committees whatever. I think the duty of this Convention is to go on with its work assiduously and as fast as possible. But I am opposed to laying this resolution upon the table for the reason that I believe we are just as well prepared to take action upon it to-day as we shall be to-morrow. We spent nearly all day yesterday upon it, and all of this day thus far; and I believe we ought to be prepared to vote upon it now, if we ever are. I see no necessity for delay.

Mr. NORTH. I have been in favor of deferring this matter to a future time, but I see that the friends of the resolution are anxious to have it brought to a vote now. If they do wish to press it to a vote I shall be obliged to vote against it.

Mr. DAVIS. I rise to deny the assertion of the gentleman. As one of the friends of the resolution, I do not wish to press it to a vote at the present time. I am very anxious that this resolution should prevail, for the reason that I believe that the future of our State depends in a great measure upon the passage of this resolution. I hope gentlemen will not get their ire up and vote against it because their petty motion, to put it off to a particular day, cannot pass. I am willing, myself to have it made a special order for to-morrow. I want gentlemen to understand the resolution they are called to vote upon it, because I believe there are some here, who, if they did understand it as amended this morning by my friend, Mr. COGGSWELL, would vote for it. I am satisfied that the resolution as amended by myself yesterday, is not exactly as I intended to have it.

Mr. NORTH. I wish simply to correct the gentleman. If he has the idea that we have our ire up he is mistaken. But when I understand from a reliable source that it is not expected to carry this resolution, and that the object is to get it off our hands, I was disposed to gratify the friends of the resolution in that manner.

Mr. DAVIS. I must correct the gentleman again. I deny that my object is to press this matter to a vote. I hope it will be carried, and I believe it will be. At any rate I know that a sufficient number of delegates to this Convention have offered to support the resolution if brought up in a manner and shape not objectionable, to carry it.

Mr. COLBURN. The position of the gentleman from Rice County (Mr. NORTH) is

rather an acute one. He says he will vote against it now, but he does not intimate that he will vote for it to-morrow. We can decide it now as well as we can to-morrow, or at any other time. Every man is prepared to vote upon it, and no man will say that the gentleman from Rice County will vote for it, if it is postponed until to-morrow.

Mr. WILSON. I move the previous question.

The previous question was seconded and the main question ordered to be put.

The question recurring upon the motion to lay the resolution on the table and make it the special order for to-morrow.

Mr. WILSON said: I rise to a point of order. When the main question is ordered does it not bring us to a vote upon the resolution itself, and can an incidental motion of that kind come up?

The PRESIDENT. It is the opinion of the Chair that the motion to postpone is the main question. If an amendment were pending when the previous question was ordered, the Convention would first be brought to vote upon the amendment and then upon the resolution itself. The motion before the Convention, when the previous question was ordered, was the motion to lay upon the table. And the Convention is brought to a vote upon that in the first instance, and then upon the passage of the resolution.

Mr. WILSON. My point was that this motion to lay upon the table, &c., is an incidental motion which would be cut off by the previous question.

Mr. LOWE. I rise to a point of order. Unless the gentleman appeals from the decision of the Chair, he is out of order.

Mr. WILSON. I do not wish to appeal from the decision of the Chair. The question is not of sufficient importance.

The PRESIDENT. Questions of order must be decided without debate.

Mr. BATES called for the yeas and nays upon the motion to lay the resolution on the table, and make it the special order.

The yeas and nays were refused.

The question was then taken, and it was decided in the affirmative.

So the resolution was laid upon the table and made the special order for to-morrow afternoon.

REPORT.

Mr. ROBBINS, from the committee on Internal Improvements made the following report, which was read a first and second time and laid upon the table to be printed, viz:

"Internal improvements shall forever be encouraged by the Legislature of this State; but in no case shall the credit of the State be pledged for any object of internal improvements, nor shall the Legislature in any case create or incur a State debt for this object, without at the same time providing means for the payment of the interest and final liquidation of the same."

The Convention then took a recess until half past two o'clock.

AFTERNOON SESSION.

The Convention reassembled at half past two o'clock.

PAYMENT OF MEMBERS.

Mr. MANTOR offered the following resolution:

"*Resolved*, That the certificates of mileage, signed by the President and attested by the Secretary, be issued to each member of this Constitutional Convention, and that the Territorial Treasurer be authorized to pay the same out of the fund appropriated by law for defraying the expenses of this Convention; and on production of said certificates by the said Treasurer, the amount of the same shall be allowed to him as a credit against any moneys in his hands, appropriated as aforesaid on the final adjustment of his accounts in relation to the said fund."

Mr. M. said: Under our rules, if this resolution gives rise to debate, it lies over one day. I really hope the Convention will suspend its rules so far as to allow this resoultion to be considered and acted upon at this time. For my own part, I think I am quite modest in offering a resolution to pay members their mileage, without the per diem. It seems to be understood that this Convention is "short"—short, I mean in pocket. I see, that by a resolution adopted yesterday, we are to adjourn on Saturday next, and I offer this resolution to relieve us from the difficulty under which we are laboring (laughter.) If we adopt the resolution it will be expediting so much of the business of the Convention.

Mr. SECOMBE. I think the resolution is unnecessary. An act was passed by the Territorial Legislature, at its last extra session, which covers this whole ground fully, and if we can by any means have the order of this Convention carried out, at any time

between the present and the time when we shall adjourn, it will be discovered that full provision has been made for the payment of the per diem and mileage of members. It will be remembered that at an early day of our session, the Convention ordered the printing of two hundred copies of that act. It has not been done.

The PRESIDENT. As the resolution has given rise to debate, it will lie over, under the rules one day.

EXPENSES OF THE CONVENTION.

Mr. SECOMBE. As this matter of the expenses of the Convention has come up, I move that the Secretary be instructed to procure the execution forthwith of the order of the Convention, made at an early day of its session, for the printing of two hundred copies of the act of the Legislature in regard to the expenses of the Constitutional Convention.

The PRESIDENT. The Secretary informs the Chair that he has performed his duty, by furnishing the printer with a copy of the order, and requesting him to furnish the printing therein ordered.

Mr. SECOMBE. I would inquire if that has been done within a short time?

The PRESIDENT. It was done at the time of the passage of the order, and the Secretary has spoken to the printer about it several times since.

The Chair is further informed that it was partly set up in the printing office, but that the act was then lost, and the Secretary was unable to get another copy.

Mr. WILSON. I hope that by some means another copy may be procured and printed. I would like to see it myself, and probably a great many others desire the same thing.

Mr. SECOMBE. I would inquire what became of the resolution I offered at an early part of the sesion to procure a copy of that act? It was offered, but not disposed of.

Mr. CLEGHORN. I have always understood that this Convention was assembled, and was acting under the Enabling Act of Congress, and not under the Territorial act. I consider that we have repudiated that act.

Mr. FOSTER. In regard to that matter, I think it is clear that the Territory has the right to pay us if it chooses. It did appropriate money to pay the expenses of this Convention. If there is anything in it which contravenes the Enabling Act, it is of no force. But I am decidedly in favor of getting a copy of that act, to see if an appropriation has been made to pay us. I understand there has been.

The PRESIDENT. The Secretary informs the Chair that the resolution offered by the gentleman from Hennepin (Mr. SECOMBE), relative to the appointment of a special committee, to procure a certified copy of the the Territorial act, is upon the table.

Mr. HARDING. I move that it be taken from the table and considered at this time.

The motion was agreed to.

The resolution was then read as follows:

"*Resolved*, That a special committee of three be appointed to procure from the Secretary of this Territory a certified copy of an act passed at an extra session of the Legislative Assembly, entitled an 'Act to provide for the payment of the expenses of the Convention to form a Constitution and State Government for the State of Minnesota, in accordance with an Act of Congress, approved March third, 1857.'"

Mr. MANTOR. Before the vote is taken upon the passage of that resolution, I would like to inquire of the gentleman who offered the resolution, what authority the Legislature of the Territory had to pass any act in reference to the government, or the expenses of this Convention?

Mr. STANNARD. I think the gentleman can be answered very easily. As a general rule, it is not well for any people to pay themselves out of the public crib, and it was thought best that the Legislature should make an appropriation to pay the expenses of this Convention, if Congress should not.

The resolution was adopted.

The PRESIDENT thereupon appointed as such committee, Messrs. SECOMBE, DAVIS and MCKUNE.

Mr. NORTH moved at three o'clock, that the Convention adjourn.

Mr. WILSON. Is there no business we can do this afternoon.

Mr. NORTH. If there is, I will withdraw the motion.

Mr. BILLINGS. There is the report of the committee upon the State Seal and Coat of Arms lying on the table ready to be acted on.

Mr. WILSON. If there is any business we can do, I want to go on with it; if not, I am anxious to adjourn. I hope our printer will get our engrossed reports returned from the printer as fast as possible. Can the Clerk inform us how many committees have yet to report?

The PRESIDENT. The Chair is informed that all the committees have reported, except the committee upon Miscellaneous Provisions, and the committee on the Schedule.

Mr. WILSON. I would further inquire whether all the reports have been so far considered as to be referred to the committee on Engrossment?

The PRESIDENT. All except those which have not been printed, and the report of the committee upon the Seal and Coat of Arms.

Mr. WILSON. I would inquire if we have not a committee upon Printing, who should see to getting those reports from the printer.

Mr. BILLINGS. We have such a committee, and they have stood long enough. (Laughter) I move that a committee of three be appointed to wait upon the gentlemen who have charge of our printing, and report as soon as possible what the probability is of our being furnished with the reports now in their hands.

The motion was not agreed to.

SPECIAL ACT OF THE LEGISLATURE.

Mr. SECOMBE, from the special committee appointed to procure a copy of the act of the special session of the Legislature, to provide for the payment of the expenses of the Constitutional Convention, reported that the committee had attended to that duty, and presented the following certified copy of that act.

"AN ACT to provide for the payment of the Expenses of the Convention to form a Constitution for the State of Minnesota, in accordance with an Act of Congress, approved March 3, 1857.

"*Be it enacted by the Legislative Assembly of the Territory of Minnesota:*

"SEC. 1. That on the first Monday of June next, the qualified electors of the Territory of Minnesota, shall assemble at their respective places appointed by law for the opening of the polls, and shall there proceed to elect by ballot certain delegates for a Convention to form a Constitution and State Government for this Territory.

"SEC. 2. Every Council District in this Territory shall elect two delegates for every councillor it may be entitled to in the Legislative Council, and every Representative District shall elect two delegates for every member they may be entitled to in the House of Representatives: *Provided*, That whenever any district has been subdivided in order to elect their representative in the Legislative Assembly, the same subdivision shall govern in the election of delegates to the Constitutional Convention.

"SEC. 3. That there shall be appropriated out of any money in the Territorial Treasury, unappropriated, for mileage and per diem of members, officers, and Secretaries, for printing, and for stationery, the sum of thirty thousand dollars.

"SEC. 4. That the members, officers, and Secretaries of said Convention, shall be entitled to the same mileage and per diem, as the members of the Legislative Assembly: *Provided*, That the presiding officer shall be entitled to three dollars per day extra.

"SEC. 5. The compensation herein provided for the members, officers, and Secretaries, shall be certified by the presiding officer, and attested, by the Secretary, as well as all claims for stationery, printing, and all other incidental expenses; which said certificates, when so certified, shall be sufficient evidence to the Territorial Treasurer of each persons claim.

"SEC. 6. The qualifications of delegates to the Constitutional Convention shall be the same as the qualifications for members of the House of Representatives of the Legislative Assembly.

"Sec. 7. This Act shall be in force from and after its passage.

"J. W. FURBER,
"Speaker House of Rep's.

"JOHN B. BRISBIN,
"President Council.

"Approved May 22, 1857.

"S. MEDARY, Governor.

"I certify that the foregoing is a correct copy of the 'Act, to provide for the payment of the expenses of the Convention to form a Constitution for the State of Minnesota in accordance with an Act of Congress approved March 3, 1857.'

"In testimony whereof, I have hereunto set my hand and affixed the Great Seal of the
[SEAL.] Territory of Minnesota, this 14th day of July, A. D. 1857.

"CHAS. L. CHASE, Sec'y of M. T."

On motion of Mr. BATES, the report was accepted and the committee discharged.

On motion of Mr. MORGAN—

"*Ordered*, That the report be laid upon the table and printed."

And then, on motion of Mr. NORTH, (at three o'clock and fifteen minutes,) the Convention adjourned.

TWENTY-EIGHTH DAY.

THURSDAY, August 13th, 1857.

The Convention met at nine o'clock A. M.

In the absence of the President, on motion of Mr. KING, Mr. MCCLURE was appointed President pro tempore.

Prayer by the Rev. Mr. MATTOCKS.

The journal of yesterday was read and approved.

PERSONAL EXPLANATION.

Mr. HAYDEN. Mr. PRESIDENT: I rise to a question of privilege. I have been absent, and coming again to my desk, I find myself reported as follows, in the *Daily Minnesotian* of Saturday:

"Mr. HAYDEN proposed to amend the substitute, by striking out from the first section, in the first line, the words, 'white male inhabitant,' and inserting these words: 'citizen of the United States.'

"The PRESIDENT considered this amendment out of order, as embracing the same matter which the Convention rejected yesterday, but withheld the decision."

Thus putting me before the public as presenting that motion out of order, and speaking to it out of order. I wish to correct this—believing it to be my privilege and duty.

In the first place I refer to our Rules. In Rule 29, I read: "but a motion to strike out "being lost, shall neither preclude amend- "ment, nor a motion to strike out and insert." It is true, it is also said here, that Jefferson's Manual shall be our guide where the Rules do not apply. But if that Rule is not plain and applicable to the case, I confess I do not understand language.

In the second place, my motion to amend, was to amend the substitute which was not adopted. If it had been the same amendment it would have been in order. To present me in that light before the public I feel is wrong; and if that is the manner of the decision, or if it was so intended by the Chair, I consider that it is an outrage upon my rights; that it is contrary to parliamentary usage; and I wish to have this matter set right. I am aware that the editors of this paper have the right to do as they please, in regard to publishing these matters—and in regard to withholding the remarks on one side, and publishing them on the other side; yet that also looks to me as a matter of injustice.

BOUNDARY LINE.

Mr. COGGSWELL. I hold in my hand, Mr. PRESIDENT, a communication which is in the nature of a memorial or petition, which I received this morning, in reference to the boundary question; and also the proceedings of a public meeting held at St. Peter on the third instant; which I desire may be read.

The letter was then read as follows:

"ST. PETER, Aug. 8th, 1857.

"*To the Members of the Constitutional Convention at St. Paul:*

"GENTLEMEN,—In accordance with the instructions of a public meeting of the Republicans of this vicinity, on the evening of the third instant, at which H. A. SWIFT, Esq., and myself were appointed a committee for the purpose, (and Mr. SWIFT being absent, and I unable to attend in person,) I herewith transmit to you the resolutions and proceedings of said meetiog, as indicative of the desire of the citizens in this region upon a question in which, at this time, the deepest interest is felt by all. I refer to the Boundary Line.

"And, gentlemen, as one feeling a deep interest in your proceedings *and success*, I will, I trust, be pardoned for accompanying these resolutions with a few suggestions.

"1st. As all are aware, we have a desperate foe to contend with. No means will be left untried for our defeat. Hence that party which shows the most fairness, who are willing to give the *people* a full and fair opportunity to express *their wishes*, will stand the best before them.

"2d. As a body, the Republicans are decidedly in favor of an *East and West Line*—many prefering that we remain out of the Union rather than go in with a different boundary.

"3d. The Republican party is identified with the movement in favor of that line—nearly all having voted for and sustained the memorial to Congress passed last winter. We were told by our leaders that it was vital to our interests as a party, and as a State, that we should have that line.

"4th. We supported them in that position, and many of them were re-elected as delegates to this Convention *almost solely upon that ground.* We went into our District Convention with that as an issue, and no man was permitted to be nominated who was not known to be sound upon that question.

"5th. Having thus identified ourselves with this movement, and that too with the advice and under the control of our leading men, many of whom are now in the Convention; how can we abandon it, with honor, with consistency, or with the expectation that the people will support us in it?

"6th. What reason can you give for denying to the *people* the right of deciding this question *for themselves?* The fact that the *bogus* body will adopt the North and South line, and that a Demo-

cratic Congress may favor their position in preference to ours, is no reason. The *people have a right to decide this question* first; and what men may think about our chances for admission, will not justify you in refusing them this right. Because a Democratic Congress *may* do wrong, is no reason why you *should* do wrong.

"7th. There is a strong feeling in the minds of the people, that a prominent reason why many of the members oppose this line, and are so anxious for immediate admission, is because they are *looking ahead to places of trust and profit;* and that to be kept out another year, would be to lessen and remove the chances of their success. Whether just or unjust, such suspicions exist; and if the Convention persist in enforcing upon them a line they do not want; and that, too, without giving them a chance to express their wishes in the matter, *that suspicion will be increased* to such an extent as to destroy confidence in those members, and to lead the people to believe that those men *seek their own advancement in preference to the good of the State or the party.* Such a result would inevitably lead to distrust, dissatisfaction, and defeat. Such a result would throw our young State into the hands of our enemies, and it would require years of toil to recover it.

"8th. It is more Republican, more truly Democratic—is more fair and honorable, to submit this question to a vote of the people. They have a right to demand it, and they exact it. If a majority decide in favor of, or against the line, that does not prevent the adoption of the Constitution. With that question left to the people, we can *heartily support your action*—without that, *we cannot.* Indeed, there are many here who are pledged to oppose any Constitution—no matter how good—which does not give them an East and West line, or submit it to a vote of the people. The Democrats in this region are also pledged to do the same.

"Hoping, and trusting, that the Convention will take truly Republican grounds upon this question, by submitting it to a vote of the people, regardless of what our opponents may do,

"I remain,

"Very respectfully yours,

"W. C. DODGE,

"Ch'n Committee."

Mr. STANNARD. I hope the gentleman who introduced that letter will let it lie upon the table, rather than to have it go upon our journals. I am always ready to hear petitions and letters, but I do not want a letter, containing such a system of pettifogging as that does, to go upon the journal.

Mr. COGGSWELL. For the information of the Convention I would state that the address just read was an address drafted by a committee appointed by a meeting held at St. Peter on the third of this month, and it is the address of that committee which was appointed to present in person to this Convention, such remarks as they thought prudent and proper.

Mr. MORGAN. I would inquire if what has been read was intended as an address to this Convention?

Mr. COGGSWELL. Yes, sir.

Mr. NORTH. I have no doubt that it was intended as a respectful address to this Convention, and I hope we shall hear the whole matter through.

Mr. COGGSWELL. I would ask for the reading of the proceedings of the meeting.

The proceedings were read and are as follows—

PUBLIC MEETING AT ST. PETER.

"At a mass meeting of the Republicans of the county, called for Monday evening, August the 3d, the meeting was called to order, and William L. Couplin was elected Chairman, and E. E. Paulding Secretary of the meeting. Mr. Horace Austin was called upon to state the objects of the meeting. On motion of Mr. Austin, a committee of three were nominated to draft resolutions, consisting of Messrs. Dodge, Hanscome and Pettijohn.

Dr. Ewing was called out, and in his remarks recommending the establishment of an East and West division line, was enthusiastically supported by the prevailing sentiment of the evening.

Mr. E. E. Paulding was called for and addressed the meeting in a few words, urging upon Democrats, as well as Republicans, their duty, as patriotic citizens, to support the East and West line, and asking them to accept of that, and none other.

Mr. Ames, in a short and telling speech, was anxious for the success of Republican principles, and of the establishment of the East and West division line.

The report of the committee on Resolutions was then read, and the following unanimously adopted:—

"WHEREAS, The citizens of the Territory of Minnesota, 'by an Enabling Act of Congress,' are endeavoring to form a Constitution by which they may be admitted into the Federal Union as a State, with equal rights and privileges with the other sister members of the Confederacy; and WHEREAS, under the call for framing a Constitution and defining our boundaries as a future state, Delegates have been chosen throughout the Territory, and are now sitting at St. Paul for the ostensible purpose of framing a Constitution which shall be acceptable to the majority of the people of the Territory; and WHEREAS, The present crisis in our political affairs demands energetic and philanthropic action on the part of the people, in order to thwart the despotic machinations of the Democratic party, which, in our opinion, judging from former precedents, is endeavoring to impose upon us a Constitution embracing doctrines and sentiments repugnant and antagonistical to the fundamental and well established principles of the Federal Consti-

tution, and inimical and dangerous to our best interests and welfare as a State; and WHEREAS, We believe that the true policy and general interests of the people of the Territory demand the establishment of an East and West boundary line, therefore, as an expression of the feelings of this Republican body.

"*Resolved*, That we recognize the Republican organization at St. Paul as the legal branch of the Constitutional Convention, and endorse their action, thus far in the premises, as in accordance with the principles and tenents of the Republican party.

"*Resolved*, That we deem it for the interests of this Territory that it be divided by an East and West boundary line, and our Delegates in the Constitutional Convention are hereby requested and instructed to use all fair and honorable means to embody in the Constitution such a boundary line, or submit the same to a vote of the people as a separate question.

"*Resolved*, That the charge of our opponents that the Republican party is Know Nothing in its character or affinities, is a false charge—and that we are as a party, in favor of the largest liberty and equal rights to *all* men, no matter where born, or of whatsoever nationality.

"*Resolved*, That the fundamental aim of the Republican party is the assertion of the true principles and just interpetation of the federal constitution, effectual opposition to the modern heresy that freedom is no better than slavery, the maintainance of the rights, dignity and sovereignty of the States, and the defence of the personal liberty of the citizen, the rights and interests of free labor, and the vindication of the doctrines of the Declaration of Independence and the essential rights of man.

"*Resolved*, That what is called the Democratic party of to-day, in the free States, could not survive a single battle in its present position, but for the lure and reward of federal patronage. That this patronage being thus the great corruptor of our politics, and the principal agent in retaining vitality in the ranks of the pro-slavery party in the free States, is an evil of vast and growing magnitude, which demands abridgement by bringing, as far as practicable, all federal offices within the reach of the people by popular election.

Mr. W. C. Dodge then took the floor and in a forcible, argumeutative, and telling speech fully met and refuted all the misrepresentations made at the meeting of the Democracy last week, and in his review of the two political parties in this Territory for the last few months, threw a light upon the subject, that must have been particularly disagreeable to the sore opposition. He stigmatized the assertion made by the opposition leaders, that the Republicans were a party with Know Nothing proclivities, as false, and challenged any person then present or elsewhere, to produce a single sentiment in any Republican platform that ever was formed, whereby the charge of Know Nothingism could attach to them as a party. Mr. Dodge ably treated the other issue of the campaign, and retired amid great applause.

Mr. Hanscome was then recalled and delighted the audience with a stirring appeal to them as Republicans, closing with an eloquent and earnest defense of them as a party, and of their position in the preseut crisis.

A lively discussion than sprang up between some of the speakers and one or two of the opposition, who endeavored to crawl out of a very small hole into which they had crept the other night, but who after a considerable squirming and wriggling, were obliged to stay where their folly had placed them.

A motion was then made and carried, that a committee of two be appointed to present the resolutions passed to the Convention at St. Paul and to have them published in the *Free Press* and other Republican papers of the Territory.

W. L. COUPLIN, Chairman.

E. E. PAULDING, Secretary."

Mr. COGGSWELL. I move that the address, and resolutions accompanying the same, be laid upon the table, to be taken up and considered this afternoon at two o'clock, in connexion with the resolution offered by the gentleman from Nicollet (Mr. DAVIS).

The motion was agreed to.

MILEAGE OF MEMBERS.

On motion of Mr. MANTOR, the following resolution was taken from the table for consideration:

"*Resolved*, That the certificates of mileage, signed by the President and attested by the Secretary, be issued to each member of this Constitutional Convention, and that the Territorial Treasurer be authorized to pay the same out of the fund appropriated by law for defraying the expenses of this Convention; and on production of said certificates by the said Treasurer, the amount of the same shall be allowed to him as a credit against any moneys in his hands, appropriated as aforesaid, on the final adjustment of his accounts in relation to the said fund."

Mr. COLBURN. I move that the resolution be laid upon the table.

The motion was agreed to.

MILITIA.

On motion of Mr. CLEGHORN, the Convention resolved itself into a committee of the Whole, (Mr. CLEGHORN in the Chair) upon report number twenty, on the Militia. (For report, see proceedings of August tenth.)

The report was read by sections for amendment and discussion.

"SEC. 1. The Militia of this State shall be composed of all able bodied white male citizens, between the ages of eighteen and forty-five years except such as are or may be exempt by the laws of the United States, or of this State, and they shall be enrolled in such manner as may be provided by law."

Mr. NORTH. I move to strike out the word "white" in the second line. I wish to strike out that word so as to bring in the Doctor's (Mr. FOSTER) half-breeds, whose

cause he has been advocating so strenuously, in order to give them a chance to fight. I am told that these half-breed Pembina men make the best cavalry in the world; that they fire with astonishing rapidity on horseback, and make first rate soldiers in an emergency. They would do to chase Ink-pa-du-ta's band.

And if the negroes and mulattoes are such excellent soldiers as General Jackson said they were at the battle of New Orleans, I want them to have a chance too.

Mr. COLBURN. I object to that amendment, for the reason that the word "white" occurs in the Constitution in another place where it deprives negroes of the right of the right of suffrage. Now I object to compelling a class of men to do military duty, who are not allowed the right to vote. It would be inflicting a hardship which they ought not to be compelled to endure. They will be compelled to do military duty under such an amendment, and to pay a fine, if the Legislature sees fit to impose a fine for the non-performance of such services. If the word "white" is to be retained in the article on the Elective Franchise, it ought to be retained here. If gentlemen desire to include the half-breed, so as to subject them to do military duty, it can be done by an additional clause, but I object to negroes being compelled to do military duty, unless they have the right to vote.

Mr. NORTH. Would the gentleman give them the right to volunteer?

Mr. COLBURN. This first section would probably not prevent them from volunteering, but I doubt the propriety of allowing even that.

Mr. FOSTER. I am in favor of the amendment, not because the half-breeds are particularly able bodied men, capable of aiding in the defence of the country, but because I believe we should allow all able-bodied persons to participate in the defence of the country. Because public opinion is not ready to accord to a particular class of population all their rights, I would not deprive them of such rights as public opinion is ready to accord to them. I would not go so far as to insist that, because they cannot have one particular right, they shall not have another. I consider that while fighting for our country is a duty, it is also a privilege. Some may think otherwise, and esteem it only a burthen. I do not view it in that light. I think we should so arrange this matter that that class will not be excluded, if the State sees fit to call upon them. I wish to have gentlemen all understand that I have taken the broad position that all the rights of men should be awarded to them, and it is only a question of policy and expediency whether we shall attempt, at this time, to encounter the public prejudice which exists. I go for doing all the justice, and all the good I can, and as fast as I can. For that reason, I am in favor of striking out the word "white" from this article.

Mr. STANNARD. I think that the second section, giving certain powers to the Legislature in regard to volunteer troops, provides sufficiently for that class of persons, and it is unnecessary to strike out the word "white" because the second section permits them to join in defence of their country, by volunteering.

Mr. NORTH. I am decidedly opposed to conferring privileges upon a large class of citizens, and then relieving them of their burdens. Gentlemen say you deprive them of the privilege of voting, and then relieve them from military duty. But there are two sides to the question. Here are a large class which that section relieves from the burden of doing military duty, for instance, the half-breeds. I hold that it is no worse for them to do military duty than it is for the whites. I insist upon it, if there is any fighting to be done, they shall have their share of it.

Mr. MANTOR. This word "white" here places me in an awkward position. Here comes before the Convention a report with my name attached, containing the word "white" while it is well known that I am in favor of striking out that word from the article on the Elective Franchise also. Now, I withheld this report for some days to see whether the word "white" would be stricken out of that article. Seeing that it was the determination of this body to insert that word in that article, I came to the conclusion that it would be no more than right; that if a certain class of persons wanted all the glory of voting, they should have all the glory of fighting too. For that reason I consented that the word "white" should be inserted in this report.

Mr. BOLLES. Because men have placed themselves in a position in which they will wish in the future they had not placed themselves, I am opposed to allowing them to avoid the inconveniences of that position. The fact that we have, in another part of the Constitution, used the word "white," (very inappropriately, as I conceive) is no argument why we should use it in this article of the Constitution, when we can very appropriately and consistently withhold it. I think it is in this connection very offensive, and I shall sustain the motion to strike it out. I hope the amendment will prevail, and I hope the good sense of the Convention—and I say it with all candor, and with a due regard to the gentleman who voted to retain it in the article upon the elective franchise—will manifest itself by sustaining the amendment.

Mr. WILSON. I would like to know whether there is another case on record, except those read by the gentleman from Rice county (MR. NORTH) the other day, where negroes have fought, or wished to fight.

Mr. NORTH. There is an abundance of cases, other than those, but I had not time to refer to them.

The question was taken on the amendment and it was not agreed to.

Mr. GALBRAITH. I move the following substitute for the whole report:

"SEC. —. The citizens of this State shall be armed, organized and disciplined for its defence, when, and in such manner as may be directed by law. Those who conscientiously scruple to bear arms, shall not be compelled to do so, but shall pay an equivalent for personal service."

In regard to this subject, I think it is generally the best course to leave it to the Legislature, and to leave it as free as possible, so that the Legislature may prescribe such rules and regulations as they think best. Now I do not suppose that the regular militia system will be adopted in the State of Minnesota. It has proved a nuisance wherever it has been adopted. The Legislature is the proper body to devise a militia system such as we want, and my substitute gives them the power to do so, and it gives them the power to allow negroes, or any other class, to serve in military companies, if they think proper to do so.

Mr. COLBURN. I hope the substitute will not be adopted, and there are several reasons why I hope so. If this shall be left to the Legislature, it will be liable to abuse, from the fact that, as is well known, that there is generally but little interest in this matter in the community. If there should happen to be in the Legislature some half dozen men ambitious of military titles and honors, they could control the whole thing, because there would be but little attention paid to it by others. They can get such an organization as they desire, and have such officers appointed as they please. That very thing has in some States, lead to considerable difficulty. This report provides not for the old militia system, but it provides that the Legislature shall provide by law for the organization, equipment and discipline of such number of volunteer troops as they shall deem necessary for the protection of the State and the preservation of order.

Then again, I do not like the last clause of the substitute. It provides that persons having conscientious scruples shall not be compelled to bear arms at any time—not only in time of peace but at any other time. Now under that provision, any person who might say that he had conscientious scruples against bearing arms, could not be compelled to bear arms at any time, and if a man is a hypocrite he can get rid of doing military duty. I think the report is far preferable to the substitute.

Mr. GALBRAITH. A word will answer the last objection urged by the gentleman from Filmore county. There are men—the Friends and others—who have conscientious scruples against bearing arms. If you make any provision in regard to this matter, you must make some such provision as that. I think it has been adopted in many States where there are a great many Quakers, and it has been adopted almost precisely in that language, and for them expressly. It is wrong to compel them to bear arms. Such a provision may be liable to be abused, and men may seek refuge under it improperly, to avoid bearing arms in time of war. But it is of little use to have such men in the army. The volunteer system is the best that can be devised for this Territory. A compulsory system can never be adopted efficiently. The defence of the country is in the able bodied men of the country, who feel an interest in

their homes and firesides. It has been demonstrated that volunteers, as a general thing, defend themselves well, upon their own soil at least—and that is what we want an army for. They will defend themselves, and their country against any body of mere hireling soldiers, and I never will, by my vote, give even an intimation that this country does not at all times possess a sufficient number of men who will volunteer to defend it.

True, as the gentleman says, a man might, for the time being, say that he was a Quaker, to avoid bearing arms, but would it not be a blessing to keep such a man out of the army? We do not want such men in the army?

As to the other objection, I have but little to say. My substitute leaves it wholly with the Legislature. And by the way we have left everything almost to the Legislature, outside of general fundamental principles. We have left them to provide the details of almost all matters, and that is our true policy in framing a Constitution. We have left the school system and the banking system to the Legislature, and why should we not leave the militia system?

The gentleman says there may be ambitious men in the Legislature who want military titles and honors. Perhaps there are some of that class among us. I do not know, and if the Governor has the right to appoint, he may appoint them if he pleases. But this I have found out, that men ambitious for military titles in times of peace, are not generally the ones to go to war. Those men, so ambitious when all is harmony, peace and sunshine, are not the ones to be found in actual war. I recollect a circumstance that occurred at the time the second requisition for volunteers was made for the Mexican war. A company of cavalry of my town held a meeting on a certain night, and two officers of the company made very brave and patriotic speeches. The next morning the information that a second requisition was made, came to our town, and a call was made for assistance there. The cavalry company was called together, and it was requested that those who would volunteer to go should advance. Two advanced only, and all the officers stayed behind.

Now I think we should trust the Legislature with this matter of establishing a system from time to time as exigencies require. Military service does not pay very well, and if there is any glory in it, let those have it who want it.

Mr. LOWE. There are reasons which, perhaps, should cause me to feel more particular interest in this subject than in any other before the Convention. I hope the amendment which has been proposed as a substitute will prevail. The same reasons which induced us to cut down the reports upon the banking system and the school system, and various other reports, should lead us, with even more determination, to deal with this report in the same way.

It seems to me that the reasons which the gentleman from Fillmore County (Mr. COLBURN) has urged against the adoption of the substitute, are very unsound. They are based upon the ground that the Legislature is not competent to legislate. If that be true, it ought to have operated with us, in our action upon many other questions which have been before us. It seems to me that it would be a very gross act upon the part of this Convention to say to the Legislature that they shall establish a certain system, and shall not establish any other. It seems to me that it would awake a strong opposition against our Constitution, upon the part of a large portion of our people, who have strong military instincts, to say that they shall have a volunteer system and shall not have a militia system. They believe the Legislature is competent to determine for themselves what is best in regard to this matter. As to what particular system is best, is a subject upon which I have not been able to form an opinion. It is one of the most difficult subjects which have been offered to this Convention, and a subject which should be determined by the Legislature according to circumstances. In one State it might be best to have a volunteer system, while in another State a mixed system would best suit their circumstances. Or it might be desirable to have a mixed system, according to circumstances and the state of public opinion at the time. An attempt upon our part to prescribe which of these systems shall be adopted for all time to come, is very objectionable.

Besides that, a particular course pursued by this Convention might implicate it with the peace party. It is well known that many

advocates of anti-slavery principles, are also strong peace men. I have nothing to say about the correctness or incorrectness of their principles, but this Convention should avoid all implication with any of those hobbies.

Now this is a matter which does not concern us in the least. It belongs to the Legislature exclusively, and should be provided for by them accor ling to circumstances at the time. I think the substitute is all we should adopt. It should be left open to the Legislature and we should not prescribe to them any particular system which they should adopt, or the particular class of troops that they should organize at any future time.

Mr. FOSTER. I think the opinion of the gentleman from Chisago (Mr. LOWE) aside from the force of this argument, entitled to respect. I have uniformly objected to legislating in the Constitution. And it seems to me that this article is, in fact, a complete militia system. I think we ought to leave it with the Legislature.

But one gentleman upon the committee which made the report, (Mr. COLBURN) says if we leave it with the Legislature, those ambitious gentlemen who want military titles and honors, will get up a comprehensive system which will suit their personal wishes, and give them office. It strikes me that the system which is contained in this report, is a pretty comprehensive one itself, and that there is a pretty large corps of these officers to be provided for. I do not say that ambitious motives operated in getting up this system. I do not say that those who got up this report deserve to be Major Generals, Brigadier Generals, Colonels, &c., but those offices are all provided for here. Nor do I say that the system was got up because we expect to elect a Republican Governor, and because the Republicans want all these nice honorable offices among themselves. I do not say that; but I do say that the argument can just as well be applied to this report, as it can be to the Legislature. This is a complete system, so far as the offices are concerned. If it were not that it is legislating in the Constitution, I should have no objection, to be sure, to the arrangement of all these officers, even though the gentleman upon the committee should desire them. I think the gentleman from Fillmore (Mr. COLBURN) would look very well in uniform, though not quite as well as my friend from Dodge County (Mr. MANTOR) the Chairman of the committee. (Laughter.) I think his appearance in military dress would be rather superior, and would look the character well.

But aside from all that matter, I think it is purely a matter of legislation, and that we better adopt the substitute and confine the article to that alone.

Mr. BARTHOLEMEW. The gentlemen of the Convention will bear with me while I make a few remarks upon this subject, and for the first time put myself upon the records of this Convention. I signed this report not because it was a perfect one, but upon the principle on which Dr. Franklin acted in signing the Constitution of the United States, that it was the best we could have under the present circumstances. I am in favor of a full organization of a militia system. I am not a fighting man I admit, but I hold that our peace and security is insured to us by being always prepared for war. I would go into a full organization of a militia system so that we may know what our strength is, and so that we may have individuals upon whom we may cast the proper resposibilities in case of war. Now we all know that three quarters of our Territory is surrounded by savage tribes, and we know not at what time we may be called upon to use our arms in defence of our lives. Hence we must all see the necessity of having a good and sufficient military force.

In regard to the amendment which was proposed to strike out the word "white" from the first section, I have but a very few words to say. I anticipated it from the quarter which it comes. The word "white" was inserted in that section for the reason that I, for one, was not willing to lay burdens upon individuals from whom we took away the rights which we guaranteed to every other class of persons. This Convention deemed it to be policy, and to be absolutely necessary under the circumstances, to insert the word "white" in another article of our Constitution. Now if we deem it improper to give to that class of persons certain privileges which we extend to others, we should not, in all justice, require them to bear arms, and expose themselves to the shots of the Indian enemy.

Another thing; it is certain that it will be

necessary for us to depend upon volunteer troops for our defence. Now I ask gentlemen, if they would be willing to join a volunteer company, if they were, by so doing, compelled to associate with persons of color. I doubt it. I assert it, without fear of successful contradiction, that God has implanted in the bosom of every man, and for wise purposes, prejudices as to certain things, and this prejudice against color, is one of them. I think to strike out this word "white" and permit colored persons to bear arms, and to volunteer, would lessen very much the probability of our always getting a sufficient military organization, under certain circumstances.

In regard to the second proposition contained in this report, I would urge, in its defence, the necessity of having some imperious obligation upon the Legislature, to provide amply for the organization of troops. I am well aware that it has grown to be popular at the present day, among the descendants of the revolution, to cry down a full militia organization. We have only to refer to Legislatures which heretofore have existed, to be convinced of the fact, that when the subject of the establishment of a militia system has been brought before them, there exists a kind of holy horror at the idea, and that they are disposed to pass the matter over very lightly and very triflingly. Now I believe that it is necessary, under the circumstances in which we are placed, that the Legislature should give full encouragement to the organization of volunteer troops. How recent is it that our homes have been disturbed by the reports of Indian incursions? How were we prepared to meet those incursions? There was no responsibility resting upon any one to bring out our citizens. Our citizens are not disposed to leave their farms and firesides to go out against the savages. There must be some compulsory process to bring them out. In view of the manner in which this subject has been treated by the Legislature, I think it incumbent upon us, in our Constitution, to make it obligatory upon the Legislature to provide ample means for organizing troops.

The third section provides that all officers of the militia (staff officers excepted) shall be elected by persons subject to military duty in their respective commands, in such manner as shall be provided by law.

In defence of the provisions of that section I would say that in many States the Legislatures have been in the habit of electing persons, to fill offices which conferred any particular honor in their own bodies. They have been careful not to allow the election of officers to be made by those who were under the direct command of those officers, and in nine cases out of ten it has proved detrimental to the best interests of the military system. I recollect that the Legislature of Ohio, a few years ago, when they revised their military system, and made provision by law for eight new divisions, elected seven of the Major Generals out of their own body. This is all wrong, as every one must see, and the third section is designed to prevent that in this State.

The fourth section provides that the Governor shall appoint the Adjutant, Quarter Master, and Commissary Generals of the State and Major and Brigadier Generals and Colonels, and Colonels shall appoint their respective staff officers.

I believe that provision is very necessary for the advancement of the militia system. We are aware that frequently officers are not qualified for the position they occupy. And they should not hold their commissions in such a manner that they cannot be displaced, provided they show themselves incapable of performing the duties of their positions.

I regret to see the spirit of opposition which has been manifested here to the militia system. The gentleman from Scott County told us of an instance which came under his observation. He told it for the purpose of disparaging the militia system. I regret to see him manifest the enmity he has to the militia system. From what I have seen of legislative action upon this subject, I have no confidence in that body in reference to this matter. They are disposed to pass the matter over as of trifling importance. We should provide abundantly for our own safety, and it is a matter which calls upon us loudly for our attention. We are surrounded by savages and we know they are easily excited and aroused. We are aware, too, that our government does not always deal with them upon strict principles of equity, and they may, and frequently do have, excusable cause for rising and attacking whites. It becomes us then to be pre-

pared at all times, and to have some means ready through which our physical strength can be best exerted in our defence.

Mr. GALBRAITH. The gentleman entirely misapprehended me, if he understood me to say that I was opposed to organizing and displaying our citizens for military duties. But the gentleman does not want to trust the Legislature. But he must trust the Legislature under this very report. They are required by it to provide laws for the organization, equipment and discipline of such number of volunteer troops as they shall deem necessary. The report itself is only a delegation of certain powers, and the development of only a part of a system, and it is inoperative of itself, as a whole plan of military organization. No man that looks at the report, will say that there is any military organization established by it. It only provides part of a system, and that part is entirely inoperative without the act of the Legislature, which the gentleman does not like to trust. It says the Legislature shall do so and so. Suppose they refuse or neglect to do so, who is going to bring compulsory process against them? There is no such power. It is left to their judgment, after all, to act or not to act, because they are to do so and so, as they shall deem necessary.

While my amendment leaves out the details of a partial system as contained in this report, it leaves the whole matter where it should be left—with the Legislature. The Constitution of the United States provides that the President shall be commander in chief of the army. And it only bestows upon Congress the simple power to raise an army. And it impliedly gives Congress unlimited power over the whole army. And is Congress more competent than the Legislature of a State, to govern this matter? We presume that Congress is as corrupt as most other bodies.

We have adopted the general principle of leaving matters of legislation to the Legislature, and of confining ourselves to general principles. With the same propriety, with which gentlemen urge us to establish a militia system, could they call upon us to establish a common school system. That we have refused to do. And I say here that a good school system is worth all the military systems in the world. The genius of the country is to cultivate the arts of peace—and to cultivate the arts of peace by the diffusion of knowledge, and the education of the morals of the whole country. To discourage war is the desire of every good man in the land. It is to be avoided wherever it can be. "In "time of peace prepare for war." That is a general sentiment. But prepare the people for war by giving them a good education, and surrounding them with home interests. Then they will defend their firesides effectually, though they were mustered into the militia, or enrolled in a volunteer company. I take it to be a fact that the greater part of our citizens who were engaged in the war with Mexico, never shouldered a musket in a volunteer or military company in their lives prior to their enrollment. The troops were made up of the good, solid, and hard working men of the country. When our country is attacked who defends it? The good, substantial and educated citizens of the country.

My substitute provides that the Legislature shall provide for the organization of a military system, and they will do it. And so under this report they are bound to do it, or else the balance of the report is entirely inoperative. If we are going into details in this matter let us have a whole system and not a part of one. But I prefer to leave it all to the Legislature.

Mr. COLBURN. I do not propose to go into a lengthy discussion of this matter, but it is so seldom that I am complimented for my good looks, that I cannot let this opportunity for saying a word pass, although perhaps I ought not to be the first one to notice it from the fact that the gentleman (Dr. FOSTER) superceded me by reference, in still more complimentary terms, to another gentleman upon the committee.

In regard to the ambitious designs of certain gentlemen of the Convention, I have no desire to deny that there may be members of the Convention ambitious even for military honors. For myself, I should be hardly willing to deny that I am ambitious. And since the gentleman's remarks I begin to grow more ambitious than ever. If a gentleman is desirous of an office, he deserves one pleasantly located. Now it is well known that the office of Commissary General and Adjutant General is in the same building and contigious to that of the Secretary of State. I do not say

that any gentleman of the Convention will be Secretary of State, but it is conceded that there is a gentleman here who would make a very good Secretary of State, and *doctor* up the matters of that office very skillfully. That is a very good office, and if I aspired to any office, I would desire one as near that of the Secretary of State as possible, so that I might enjoy the affability and sociability of any gentleman who might be elected to fill it. As it is not then determined, but that I shall aspire to that location, I hope the report will be adopted, so that I may have a chance. (Laughter).

The substitute offered by the gentleman from Scott County (Mr. GALBRAITH) was then adopted.

Mr. COLBURN. I offer the following as an additional section to the substitute:

"SEC. —. All officers of the Militia—staff officers excepted—shall be elected by persons subject to military duty in their respective commands, in such manner as shall be provided by law."

I offer the section in order to meet the objections of some gentlemen here. It prevents the Legislature from electing any of those officers. It is the custom in many States, for the Legislature to elect Major Generals &c. I consider that a bad policy, and I propose that the officers shall be elected by persons who are required to do military duty.

The amendment was agreed to.

And then, on motion of Mr. BATES, the committee rose and reported to the Convention the report and amendments, with a recommendation that the amendments be concurred in.

The question being upon concurring in the recommendation of the committee—

Mr. MORGAN said: I call for a division of the question so that we may take a separate vote upon the substitute offered by the gentleman from Scott county (Mr. GALBRAITH.) I call for the division because I am opposed to the last amendment which was adopted, offered by the gentleman from Fillmore county (Mr. COLBURN.) It seems to me that there may be a difficulty about the choice of officers under that section. It proposes that all persons interested may vote. Different States have adopted different organizations. Some of them have provided that all persons between the ages of eighteen and forty-five shall be enrolled, while at the same time they have special provisions for the actual organization of independent companies. Now the question arises in choosing Major Generals, &c., whether every person in the division would be entitled to vote, or only persons belonging to organized, standing companies. I think the whole matter had better be left with the Legislature.

Mr. COLBURN. I will simply remind the gentleman that that section states that they shall be elected by the respective persons doing military duty in the manner prescribed by law. The Legislature provides who those persons shall be, and they must be in their respective commands.

Mr. MORGAN. In that case the Legislature might provide that commissioned officers, and non-commissioned officers, might choose Brigadier and Major Generals.

The question was then taken severally on the amendments recommended by the committee of the Whole, and they were respectively concurred in.

Mr. STANNARD. I offer the following as a substitute:

"SEC. —. The Legislature shall provide by law for the organization, equipment and discipline of the militia, and such number of volunteer troops as they shall deem necessary for the protection of the State and the preservation of order."

Mr. PERKINS. I desire to inquire if section thirty-five of the report upon the Legislative Department was stricken out?

Mr. CLEGHORN. It was. It covered the same ground as this report.

The substitute was adopted.

Mr. CLEGHORN offered the following as an additional section.

"SEC. —. No person having conscientious scruples against bearing arms, shall be compelled to do military duty in time of peace, but may be required to pay an equivalent for such service."

The amendment was adopted.

Mr. STANNARD. I believe there is a misunderstanding in regard to the substitute I offered. I intended it only as a substitute for one section. I did not intend that it should take the place of the whole report. I intended it only to take the place of the section which was offered by the gentleman from Scott county, (Mr. GALBRAITH.)

The PRESIDENT. The Chair did not so understand it, and it was adopted as a substitute for the whole report as it then stood.

Mr. COLBURN. I call for the reading of the whole report as it now is.

The PRESIDENT read the report, consisting of the substitute offered by Mr. STANNARD, and the additional section offered by Mr. CLEGHORN.

Mr. COLBURN. I think that gentlemen of this Convention do not understand the force and effect which the report is going to have as it now stands. It provides for more than gentlemen, I imagine, are willing to go for. It goes further in warlike preparation than gentlemen are aware of. I desire to have a little delay to allow me to prepare an amendment. (Cries of "question," "question.")

The report as thus amended was ordered to be engrossed for a third reading.

TAXATION, FINANCE &C.

On motion of Mr. KING, the Convention resolved itself into a committee of the Whole, (Mr. HUDSON in the Chair) upon the report of the committee on Finance, Taxation and Public Debt.

[For report, see proceedings of August tenth.]

The report was read by sections for amendment and discussion.

The first three sections were passed without amendment.

"SEC. 4. The credit of the State shall not be granted to, or in aid of, any person, association or corporation."

Mr. KING moved to strike out section four.

Mr. CLEGHORN. I hope that motion will prevail. In report No. five, section eight, on Banking and Corporations other than Municipal, there is this provision:

"The State shall not be a stockholder in any banking or other corporation; nor shall the credit of the State be given or loaned in aid of any person, association or corporation."

Mr. LOWE. It seems to me that this is one of those doubtful propositions, which this Convention is not called upon to insert in the Constitution. I know that in many cases the exercise of the power which is now proposed to be taken away from the Legislature, has been exercised by them very beneficially. I think it is a mooted question whether the Legislature should or should not be permitted to grant such aid, and I do not think that this Convention is called upon to determine it. I should not feel satisfied to say that the Legislature shall not grant such aid. I know that in the State of Massachusetts that power has been exercised by the Legislature, and it has resulted in the highest good. Other instances might be pointed out in which it has operated differently. I do not know why it would not be likely to operate as well in this State as in any other, and by saying that such power shall not be exercised by the Legislature might impede the advancement of our State. I do not think we ought to restrict the State in the use of this power for all coming time, though it may be that the power has been abused. There is the right of endorsement among individuals. It has been abused, but who would suggest a restriction of individual action on that account? If rightly used it is a source of great benefit. This provision is one which is not commonly adopted in the Constitutions of our States and I think we are not called upon to adopt any extreme propositions. This is certainly such a one.

The motion was agreed to, and the section was stricken out.

"SEC. 6. The State shall never contract any debts for works of internal improvements, or be a party in carrying on such works; except in such cases where grants of land or other property shall have been made to the State, especially dedicated by the grant to particular works of internal improvements, the State may carry on such particular works, and shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion."

Mr. McKUNE moved to strike out that section.

Mr. STANNADD. I hope that motion will not prevail. It seems to me that it may be necessary that there should be such a provision in the Constitution. It may be that a donation or grant of swamp lands, or other lands may be made to the State to aid in the construction of some public works, to which it may be necessary for the State to be a party. I am not disposed, by striking out this clause of the Constitution, to make it obligatory upon the State to transfer their interest in such grant to certain parties, in

order that the object for which the grant was made may be carried out, and have the hands of the State tied entirely. It certainly can do no harm if it remains here, and it may do much good.

Mr. McKUNE. Such a grant as the gentleman alluded to, always carries with it the right to dispose of it. In that respect, then, this section is entirely unnecessary. Besides that, it grants doubtful powers. A State, under this clause, may become a partner to any public work in the State wherever a grant of land has been made, or may be made. Now I hope never to see the State a partner in any public works or public improvements.

The motion to strike out was not agreed to.

"SEC. 7. The State shall never contract any public debt, unless in time of war to repel invasion, or suppress insurrection, except as is in this Constitution provided.

"SEC. 8. The money arising from any loan made, or debt or liability contracted, shall be applied to the object specified in the act authorizing such debt or liability, on the re-payment of such debt or liability, and to no other purpose."

Mr. CLEGHORN. I move to strike out sections seven and eight. My reason for making the motion is, that we have already embodied the subject matter, of those sections in the article on the Legislative Department. Section thirty-six of that article reads as follows:

"The Legislature may contract debts to meet casual deficits or failures in the revenue, but such debts, direct or contingent, singly or in the aggregate, shall not at any time exceed five hundred thousand dollars; and the moneys arising from loans creating such debts, shall be applied to the purposes for which they were obtained, or to pay such debts: *Provided*, That the State may contract debts to repel invasion, suppress insurrection, or if hostilities are threatened, provide for the public defence."

If we adopt these two sections, they will conflict with the provision of a section we have already adopted in another part of the Constitution.

The motion was agreed to, and the sections were stricken out.

Mr. WILSON offered the following as an additional section:

"SEC. 10. The Legislature shall provide by law for taxing the notes and bills discounted or purchased, money loaned on all other property, effects or dues of every description, of all banks now existing or hereafter created, and of all bankers, so that all property employed in banking shall always bear a burden of taxation equal to that imposed on the property of individuals."

Mr. STANNARD. Is not that species of property included under the head of personal property?

Mr. WILSON. I would say that sometimes it is, and sometimes it is not. It could be included under that head, but I do say that we shall find the rule upon this subject is as conflicting as can possibly be imagined. And if we here believe that this kind of property should bear a burden of taxation equal to that of individuals—and I think no person will dispute that—it is our duty to insert such a clause in the Constitution, for no person will say that it has been a uniform rule to tax them, when there has been no constitutional provision requiring it. These banking institutions stand upon the same footing as the other monopolies I have heretofore spoken of. They frequently have privileges which individuals have not. I want to set the question of their taxation at rest here.

Mr. STANNARD. As chairman of the committee which made this report, and as a member of this Convention, I have constantly felt inclined to steer as far from anything which would look like legislation as possible. I am not opposed, that I know of, to having property of the kind mentioned by the gentleman from Winona, taxed, but I am opposed to making that amendment a constitutional provision, because I think it belongs entirely to the Legislative department to regulate that matter.

Mr. WILSON. I will say that my amendment was a section taken from the Ohio Constitution. I do not claim any originality in that amendment.

Mr. MORGAN. It seems to me that such a provision would operate very unjustly. In the first place it is provided that all species of property shall be taxed. All men are taxed for their banking capital. I own shares in a bank. I am taxed for them. In addition to that, the gentleman now would provide that bills and notes shall be taxed—for instance, the bills in circulation or the notes discounted. I might own a bank with a capital of one hundred thousand dollars, and under this provision I would first be taxed for my banking capital; then I might be taxed for the deposits persons might be pleased to make in

the bank; I might be taxed for all the notes I discounted, and for all the notes which I put in circulation—and in fact be taxed four or five times the same capital.

In reference to this being a provision from the State of Ohio, I know that that matter has been in litigation in that State for many years, and there is great difficulty constantly growing out of it. Banks have always disputed the taxes, and banks have been broken open by county or state authorities for the purpose of collecting taxes, and the matter is not settled yet. I do not desire to see any such state of affairs in Minnesota.

Mr. BALCOMBE. I can see no necessity for adopting the section offered by my colleague, for the reason that the first section provides that the Legislature shall make laws for a uniform and equal rate of assessment and taxation, and shall prescribe such rules as shall secure a just valuation for taxation of all property. Now why select out one particular class of property and appropriate a whole section to it, especially when we have covered the whole ground by a previous section, which authorizes the Legislature to pass such general laws as they may see fit and proper with an eye to the proper and equal taxation of all kinds of property. The first section covers fully and completely the ground which the gentleman wishes to cover.

Mr. WILSON. The reason I would give for being specific on this particular property is, that notwithstanding almost every Constitution contains a clause similar to the first section to which my collegue referred, yet the practice, under it so far as this species of property is concerned, has been exceedingly fluctuating, some States taxing and some not taxing the circulation of banks. Now when we find this rule so fluctuating, and that the provision like that contained in the first section of this report does not answer all the ends proposed, should we not provide specifically by a section which cannot be misunderstood or misconstrued, that this property shall be taxed? I think no gentleman can see anything unjust in this provision. I have looked at it carefully. I know very little of banks particularly, but I claim that such a provision is just, and without this additional section we have no security that that first section will be carried out as we wish.

The amendment was rejected.

Mr. STANNARD moved to insert in place of section eight, which had been stricken out, the following:

"The Legislature may provide for levying taxes for the support of common schools as may be deemed expedient."

Mr. BALCOMBE. I would inquire of the gentleman, if there is not such a provision as that in the report of the committee upon educational institutions and interests, already adopted.

Mr. STANNARD. I am not able to inform the gentleman.

Mr. LOWE. I believe it is provided for in that report.

Mr. SECOMBE. My recollection is that the report as made by the committee, was entirely voted down, and a substitute of two sections offered by the gentleman from Mower county (Mr. LYLE,) was adopted in the place thereof.

Mr. STANNARD. I withdraw the amendment. I was not aware that there was any such section.

Mr. BILLINGS. As the committee have voted down the amendment of the gentleman from Winona, I move to amend the first section, by inserting after the word "personal" in the fourth line, the words "and mixed," so as to make it read "as shall secure a just valua-"tion of all property, both real and personal "and mixed," &c. It may cover a class of property which we may fail to recognize. It is well known that there is a class of property that does not belong to real or personal.

The amendment was adopted.

Mr. PECKHAM. I move to amend the same clause, by striking out the word "both" before the words "real, personal and mixed." That amendment becomes necessary from the change in phraseology made by the last amendment.

The amendment was adopted.

Mr. ALDRICH offered the following amendment: strike out all after the word "excepting" in the fourth line of the first section and insert:

"The property of the State and Counties, both real and personal, and such other property as the Legislature may deem necessary for school, religious, charitable, literary and scientific purposes."

Mr. DICKERSON. I would enquire if that exception includes homestead exemptions?

The amendment was agreed to.

Mr. DICKERSON. I would now inquire if there is any section which provides for the exemption of any household furniture from taxation. If there is no such provision I should think it highly important that the latter part of the first section should be retained as it was reported by the committee. There should be a certain amount of household property which every one may hold free from taxation. That is the reason why I voted against the amendment.

On motion of Mr. LOWE, the committee then rose, reported to the Convention the report and amendments with a recommendation that the amendments be concurred in.

The question first recurred upon concurring in the amendment to the first section by striking out all after the word "excepting," and inserting "the property of the State and "county both real and personal, and such "other property as the Legislature may deem "necessary for schools, religious, charitable, "literary and scientific purposes."

Mr. PECKHAM. It strikes me that there is one class of institutions which it may be proper to except from taxation, but which is not included in that amendment, such as hospitals and asylums. They were provided for in that part of the report of the committee which was stricken out by this amendment.

The PRESIDENT. The amendment includes charitable and literary institutions.

Mr. MORGAN. I would enquire if the amendment includes municipal property? I have the impression that it does not.

Mr. FOSTER. I would suggest how this whole difficulty can be got along with. It is not necessary to enumerate all these classes of property which may be exempted by law. Suppose we strike out all between the word "only" and the word "as" so that it shall read "excepting such only as may be specially "exempted by law."

There is force in the objection of the gentleman from Scott county (Mr. DICKERSON,) and to obviate that objection, as well as others, I move to strike out the words I have mentioned.

The PRESIDENT. The first question is upon concurring in the amendment recommended by the committee, and after that is disposed of, the amendment will be in order.

The amendment of the committee was not concurred in.

Mr. FOSTER. I now offer my amendment.

Mr. WILSON. I think that gentlemen who want to be consistent, ought to vote for the amendment, and leave it to the Legislature to tax a few and exempt a few—leave it for them to do just as they choose. For myself, I shall vote against it. I do not wish to leave it to the Legislature to make any such exceptions. I do not think it would be safe.

Mr. CLEGHORN. I do not think any wrong will arise from that course. We have already provided in the Constitution, that all laws shall be of a general character. I am in favor of the amendment.

The amendment was agreed to.

The second amendment recommended by the committee was to strike out the word "both" in the third line of the first section.

The amendment was concurred in.

The third amendment, to strike out section four, was concurred in.

The fourth amendment, to strike out sections seven and eight, was concurred in.

Mr. FOLSOM. I move to strike out section six. It is as follows:

"The State shall never contract any debts for works of internal improvements, or be a party in carrying on such works; except in such cases when grants of land or other property shall have been made to the State, especially dedicated by the grant to particular works of internal improvements, the State may carry on such particular works, and shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion."

Report No. 22, on Internal Improvements, conveys the same meaning and in much better style than the first part of section six. As to the latter part of section six, which refers to grants of land, I maintain that where land is donated, there is a natural right in the Legislature of the State to dispose of it, without any Constitutional provision.

The motion was agreed to, and the section was stricken out.

Mr. SECOMBE. I move to amend the first section by inserting the words "a general" before the word "law;" so as to require that the Legislature shall provide by a general law for a uniform and equal rate of taxation, &c.

Mr. FOSTER. I am opposed to that amendment. It is a useless multiplication of words.

Mr. SECOMBE. My object is to make the exceptions general. I do not understand, as the section now stands, that it does make the exceptions general. It would authorize the Legislature at every session, perhaps, to exempt certain and particular property from taxation.

The amendment was agreed to.

Mr. WILSON. I would like a little further time to look over this report, and I move that the Convention take a recess until half-past two o'clock. It is now our usual time to adjourn.

Mr. STANNARD. I hope the Convention will take a recess and think this matter over. As this report is now shaped, I conceive that the donation made by the Enabling Act, never will be made available.

Mr. COLBURN. I move that the report be laid upon the table.

Mr. WILSON. I withdraw my motion.

The motion to lay upon the table was agreed to.

THE MILITIA AGAIN.

Mr. FOSTER. I would like the unanimous consent of the Convention to move to reconsider the vote by which the report upon the Militia was ordered to be engrossed for a third reading. I think that the Convention did not, in that report, exactly get at what they intended—or at least, that the phraseology employed did not effectuate their intention. I will read, as part of my remarks, what I intend to offer as a substitute for that report, if the motion to reconsider prevails. It is this:

"SEC. —. The Legislature shall provide by law for the enrollment of the militia, the establishment of volunteer corps, and such other organization, equipment and discipline or both, as may be deemed necessary for the protection of the State, and the preservation of order; but no person having conscientious scruples against bearing arms shall be compelled to do military duty in time of peace, but may be required to pay an equivalent for such service."

That differs from the report as it now stands in this; that the report seems to provide for the organization, equipment, and discipline of the militia, absolutely—which, I think, was not intended by the Convention; certainly not upon my part.

Mr. LOWE. I would ask if the proposed amendment would not prevent the organization of the militia?

Mr. FOSTER. Certainly not. It reads in this way:

"The Legislature shall provide by law for the enrollment of the militia, the establishment of volunteer corps, and such other organization, equipment and discipline, or both, as may be deemed necessary for the protection of the State and the preservation of order, &c."

I make the motion to reconsider.

The motion to reconsider prevailed.

Mr. STANNARD, I now move to reconsider the vote by which the Convention adopted the substitute which I offered.

The motion was agreed to.

And then, on motion of Mr. CLEGHORN, the Convention took a recess until half-past two o'clock.

AFTERNOON SESSION.

The Convention re-assembled at half-past two o'clock.

The PRESIDENT stated the business before the Convention, when it took a recess, was the consideration of the report upon the militia.

BOUNDARIES OF THE STATE.

Mr. COGGSWELL. I rise to a question of order. I believe the resolution offered, by the gentleman from Nicollet, (Mr. DAVIS,) a few days since, was made the special order for this afternoon at two o'clock. I ask that it be now taken up and considered.

The resolution was taken from the table and read to the Convention.

Mr. COGGSWELL. I move to amend the resolution by striking out all of the first clause of the resolution after the word "it" in the thirteenth line, and inserting the following:

"Then the same shall go to the Congress of the United States with this Constitution, and if assented to by Congress, then the same shall be a part of the said Coustitution, and binding upon the people of the said State of Minnesota, without any further action on their part.

I wish merely to say that I am satisfied that I connot succeed in obtaining language any stronger than that used in this amendment, and that without that language, I am satisfied that the resolution will amount to

but little. With the hope that it will prove satisfactory to the friends of the measure, I offer it. The language is more appropriate than that made use of in the resolution as offered by the gentleman from Nicollet. The idea of certifying a proposition of that kind is ridiculous and absurd. For that reason I desire to substitute the language I have chosen, and then it will be intelligible to say the least of it. And inasmuch as I do not propose to discuss the merits of this matter, but desire to come to a direct vote I move the previous question,—a thing which I have not done before during this Convention.

Mr. MORGAN. Is a call for the previous question debatable?

The PRESIDENT. After the previous question has been seconded, debate is not in order.

Mr. MORGAN. My question is whether debate is in order upon the previous question?

The PRESIDENT. It is not.

Mr. MORGAN. I hope the previous question will not be sprung upon the Convention in a matter of this kind, and especially after it has been discussed by its advocates for two or three days.

Mr. COGGSWELL. I call for the yeas and nays upon the previous question.

Mr. FOLSOM. I move that there be a call of the Convention.

A call of the Convention was ordered, and the roll being called the following members failed to answer to their names—

Messrs. AYER, BILLINGS, COLBURN, FOSTER, GERRISH and SHELDON.

Mr. PHELPS moved that all further proceedings under the call be dispensed with.

The motion was not agreed to.

The Sergeant-at-Arms was directed to report the absent members in their seats.

After an interval of fifteen minutes, during which the Sergeant-at-Arms was looking up absent members—

Mr. CLEGHORN moved to reconsider the vote by which the Convention refused to dispense with further proceedings under the call.

Mr. MORGAN. I would inquire if the gentleman voted with the majority?

Mr. CLEGHORN. I did not.

The PRESIDENT. The motion is out of order then.

Mr. BOLLES. I voted with the majority, and I move to reconsider. I believe several of the absent members have come in.

The motion to reconsider prevailed, and then all further proceedings under the call were dispensed with.

The previous question was then seconded, and the main question ordered to be put.

Mr. MORGAN called for the yeas and nays upon the amendment.

The yeas and nays were ordered, and the question being put, it was decided in the negative, ayes 28, nays 29, as follows:

Yeas—Messrs. Anderson, Billings, Bolles, Butler, Cleghorn, Colburn, Coggswell, Coe, Davis, Duley, Gerrish, Harding, Holley, King, Lyle, Mantor, McCann, McKune, McClure, Mills, North, Perkins, Peckham, Robbins, Thompson, Watson, Wilson and Mr. President.

Nays—Messrs. Aldrich, Baldwin, Bates, Bartholemew, Cederstam, Coombs, Dickerson, Eschlie, Folsom, Galbraith, Hall, Hayden, Hudson, Hanson, Kemp, Lowe, Messer, Morgan, Murphy, Phelps, Putnam, Russell, Stannard, Sheldon, Secombe, Smith, Vaughn, Walker and Winell.

So the amendment was rejected.

The question then being upon the passage of the resolution—

Mr. COGGSWELL called for the yeas and nays.

The yeas and nays were ordered, and the question being put it was decided in the affirmative, yeas 30, nays 28, as follows:

Yeas—Messrs. Anderson, Billings, Bolles, Butler, Cleghorn, Colburn, Coggswell, Coe, Davis, Duley, Gerrish, Harding, Holley, King, Lyle, Mantor, McCann, McKune, McClure, Mills, North, Perkins, Peckham, Robbins, Secombe, Thompson, Vaughn, Watson, Wilson and Mr. President.

Nays—Messrs. Aldrich, Baldwin, Bates, Bartholemew, Cederstam, Coombs, Dickerson, Eschlie, Foster, Folsom, Galbraith, Hall, Hayden, Hanson, Hudson, Kemp, Lowe, Messer, Morgan, Murphy, Phelps, Putnam, Russell, Stannard, Sheldon, Smith, Walker and Winell.

So the resolution was adopted.

MILITIA SYSTEM.

The Convention then resumed the consideration of the report of the committee on the Militia, the question being on the adoption of the substitute offered by Mr. STANNARD.

Mr. KING. The report was ordered to be engrossed for a third reading, and although the Convention reconsidered the vote by which it was ordered to be engrossed, I took the liberty to have it engrossed as it passed, and I now ask that it may be read.

The PRESIDENT. The vote has been reconsidered by which the Convention ordered the report to be engrossed. After that vote was reconsidered the gentleman from Chisago (Mr. STANNARD) moved to reconsider the vote by which the substitute he offered was adopted. That motion prevailed, and the question now before the Convention is upon the adoption of that substitute.

Mr. FOSTER. I now offer my amendment in the nature of a substitute, of which I gave notice when I made the motion to reconsider.

The substitute was read as follows:

"SEC. — The Legislature shall provide by law for the enrollment of the militia, the establishment of volunteer corps, and such other organization, equipment and dicipline or both, as may be deemed necessary for the protection of the State, and the preservation of order; but no person having conscientious scruples against bearing arms shall be compelled to do military duty in time of peace, but may be required to pay an equivalent for such service."

Mr. PERKINS. Is there more than one section in the report as it now stands?

The PRESIDENT. There are two. Since the passage of the resolution on the boundary question, much confusion prevailed in the Hall, and the President was frequently comlled to call gentlemen to order. So much conversation and excitement prevailed in the Convention that it was impossible to proceed with the business.

Mr. NORTH. I move that this subject be laid upon the table for the present. Members will not attend to business. Some of them have more interest in another question.

The motion was agreed to, and the report was laid upon the table.

BOUNDARY QUESTION AGAIN.

Mr. NORTH. I now move, if it is in order, to reconsider the vote by which the resolution, submitting the question of boundary to the people, was passed. I regret to see so much feeling upon the subject, upon both sides. It is well known what have been the views of every member of this Convention in reference to the boundaries of the State. Gentlemen have had frequent occasion to express their sentiments, both by vote and by speech. As there were certain portions of the State that felt a deep interest in that question, I felt disposed to gratify their wishes and desire to submit that question to the people, if we could do so without injury to other sections of the Territory, and I hoped, if the subject was submitted as a memorial simply, it might be done without injury or prejudice to any portion of the Territory. But I see there is great feeling upon the opposing side, as well as upon the other side; and as this vote was taken under the operation of the previous question, affording gentlemen no opportunity to express their views upon the question, I think it best to reconsider it, and, therefore, I make that motion.

Mr. COGGSWELL called for the yeas and nays.

The yeas and nays were ordered, and the question being put it was decided in the affirmative—yeas 32, nays 21, as follows:

Yeas.—Messrs. Aldrich, Baldwin, Bates, Bartholomew, Butler, Cederstam, Coombs, Dickerson, Eschlie, Foster, Galbraith, Hall, Hayden, Hudson, Hanson, Kemp, Lyle, Lowe, Messer, Morgan, Murphy, North, Phelps, Perkins, Putnam, Peckham, Robbins, Russell, Sheldon, Smith, Vaughn, and Walker.—32.

Nays.—Messrs. Anderson, Billings, Bolles, Cleghorn, Colburn, Coggswell, Coe, Gerrish, Harding, Holley, King, Mantor, McCann, McKune, McClure, Mills, Secombe, Thompson, Watson, Wilson, and the President.—21.

So the motion to reconsider was carried.

The question then recurring upon the passage of the resolution—

Mr. COGGSWELL moved that there be a call of the Convention.

A call was ordered, and the roll being called, the following members failed to answer to their names:

Messrs. AYER, LYLE, STANNARD, and WINELL.

And then, on motion of Mr. McKUNE, (at three o'clock and thirty minutes,) the Convention adjourned.

TWENTY-NINTH DAY.

FRIDAY, August 14th, 1857.

The Convention met at 9 o'clock, A. M.

The journal of yesterday was read and approved.

BOUNDARIES OF THE STATE.

The PRESIDENT announced, under the regular order of business, the unfinished business of yesterday, being the consideration of the resolution offered by Mr. DAVIS, submitting the boundary question to a vote of the people.

Mr. SECOMBE. Before the question is taken upon that resolution, I desire to say a few words. I have, heretofore, refrained from taking any part in the discussion of this resolution, for the simple reason that I felt no interest in the matter one way or the other. It will be recollected, that in the early part of the session, when the subject was before the Convention of accepting the Enabling Act, I gave my views upon that subject; that I spoke in favor of adopting the provisions of the Enabling Act, and that I did, in every respect, strenuously insist upon the Enabling Act being complied with in its minutest particulars. At the same time, when gentlemen have questioned me with regard to the propriety of taking a vote of the people upon the question of boundaries, I have invariably stated to gentlemen upon both sides of the question, that I had no objections; that I saw no impropriety in allowing the people to express their opinions upon that subject in any way in which the validity of the Enabling Act would not be affected, or the effect of the Enabling Act be injured. And when the proposition was submitted to the Convention, which proposed, under an amendment, to make this proposition a part of the Constitution, I stated to gentlemen that I could not vote for that, and that I should not vote for the proposition in any other shape than as a memorial. Other gentlemen made the same statement. When the vote was taken, I voted as I had indicated that I should; not that I had any feeling about it, but that I considered it nothing but what was perfectly fair and safe. I consider it so now. I entirely deny and disregard the arguments that have been used by those opposed to the resolution, as to the deleterious effect that would be produced by the passage of the resolution. At the same time, it seems to be the general wish of the delegates from the county represented by myself that the resolution should not pass. There is a great deal of feeling upon the subject; and as I have no particular feeling upon this subject, and only voted in accordance with what I considered a reasonable and fair proposition, I propose to change my vote when it is taken again. And I thought it not improper to make a statement of the reasons which induce me to do so.

Perhaps there is another reason. I understand that some gentlemen are so much aggrieved with the passage of the resolution that they are threatening to go off and leave us, and not assist any further in the work of this Convention. Being very anxious to have the assistance of all the members of this Convention, if I can do anything to retain them here, I shall be glad to do it.

Mr. McCLURE. The people of the county which I have the honor to represent, are almost unanimously in favor of a north and south line. So far as I am concerned personally I am decidedly opposed to it, and I am also decidedly in favor of the right of petition. I stated when the resolution was first introduced that I could not support it, making it part of the Constitution. I drew up a little statement which I find incorporated in it, which I conceive to be innocent and harmless, in shape, manner and form, and in my judgment it cannot be construed in any other way than simply as a request that Congress will do so and so. I understand that we have accepted the conditions of Congress unconditionally, and now I am disposed to vote just as I did before; I am disposed to vote for this resolution, not because I am in favor of an east and west line; not because the people of my county are in favor of it, but because I am not willing to say that the people shall not memoralize Congress upon any subject whatever.

Mr. COGGSWELL. As I desire that there should be a full Convention when the vote is taken. I move a call of the Convention.

A call was ordered, and the roll being called, Messrs. AYER, LYLE, WALKER and WINELL failed to answer to their names.

The Sergeant-at-Arms was directed to report the absentees in their seats.

Mr. SECOMBE. I am informed that Mr. AYER has been excused.

Mr. COLBURN. I would state that Mr. AYER did apply to the committee on Leave of Absence, to be excused, as there was an absolute necessity for his going home.

Mr. SHELDON. I would state that he is not expected to return.

Mr. CLEGHORN. I move that all further proceeding under the call be dispensed with.

The motion was not agreed to.

Mr. BATES, after an interval of twenty minutes, moved to reconsider the vote by

which the Convention refused to suspend all further proceedings under the call.

The motion to reconsider prevailed, and then all further proceedings under the call were dispensed with.

The question recurring upon the passage of the resolution.

Mr. COGGSWELL demanded the yeas and nays.

The yeas and nays were ordered, and the roll being called, it was decided in the negative, yeas 26, nays 31, as follows:

Yeas—Messrs. Anderson, Billings, Bolles, Butler, Cleghorn, Colburn, Coggswell, Coe, Davis, Duley, Gerrish, Harding, Hanson, Holley, King, Mantor, McCann, McKune, McClure, Mills, Peckham, Robbins, Thompson, Watson, Wilson and Mr. President.—26.

Nays.—Messrs. Aldrich, Baldwin, Bates, Bartholomew, Cederstam, Coombs, Dickerson, Eschlie, Foster, Folsom, Galbraith, Hall, Hayden, Hudson, Kemp, Lowe, Messer, Morgan, Murphy, North, Phelps, Perkins, Putnam, Russell, Stannard, Sheldon, Secombe, Smith, Vaughn, Walker and Winell.—31.

So the resolution was rejected.

Mr. ALDRICH. I move to reconsider the vote just taken, and also move to lay the motion to reconsider on the table.

Mr. COGGSWELL. Is that motion debatable?

The PRESIDENT. It is not.

Mr. COGGSWELL. I want to know if the gentleman can compound those two motions, so that members of this Convention cannot express their views and sentiments in regard to this matter.

The PRESIDENT. It is in accordance with the practice in Congress to move to reconsider and to move, at the same time, to lay the motion to reconsider upon the table.

Mr. COGGSWELL. I am aware that a mere motion to lay upon the table is not debatable, but a motion to reconsider, coupled with a motion to lay upon the table, it seems to me is debatable.

The PRESIDENT. A motion to lay upon the table is not debatable, and it is not in order to debate the main question after a motion is made to lay the main question on the table.

Mr. SECOMBE. I would inquire if, before a motion is seconded, another motion can be made to lay the previous motion upon the table?

The PRESIDENT. The Chair thinks that can be done in such a case as this, and such is the practice in Congress.

Mr. WILSON. I rise to a point of order. Has any man a right to get up and make two motions at the same time, at one standing? I think he has not.

The PRESIDENT. The Chair has decided the question, and if the gentleman wishes to take an appeal, it is his privilege.

Mr. McCLURE. I do not understand that the motion has been seconded, and therefore it is not before the Convention.

The PRESIDENT. The Chair heard a second.

Mr. WILSON. Which motion was the second to? Was there any designation as to which it was to?

The PRESIDENT. The motion of the gentleman from Hennepin County was seconded.

Mr. WILSON. I ask for information, which motion was seconded; or were both motions seconded?

The PRESIDENT. The motion to lay upon the table was seconded.

Mr. WILSON. If the motion to reconsider was not seconded it was no motion, and there is nothing for the second motion to stand upon.

The PRESIDENT. The Chair has replied to the gentleman, that it is customary in legislative bodies—in Congress certainly—for a gentleman to move to reconsider a vote, and at the same time to move to lay that motion on the table, and if the latter motion is seconded the motion is put by the Speaker or presiding officer, and if carried a reconsideration does not take place.

Mr. WILSON. The Chair does not understand my point. The practice in Congress is to make a motion to reconsider, and that being seconded, then to move to lay that motion upon the table. There was no second to the motion to reconsider in this case. The other question too, as to the right of a member to make two motions at one standing, so as not to allow another member to get the floor, is also a question to which I think there are two sides, and the Chair seems to have taken the one I cannot take.

Mr. ALDRICH. I would like to say a word by way of explanation. It is well

known that this question has already occupied a great deal of time. I have refrained from saying anything one way or the other. It is a matter of importance and interest to the people whom I in part represent. It is also well known that every gentleman here is anxious to get through with our business and go home, and myself as much so as any gentleman. The object of my motion was to dispose of this matter, so that we could go on with something else, and complete, as soon as possible, the work we have before us.

Mr. COGGSWELL demanded the yeas and nays upon the motion to lay upon the table.

The yeas and nays were ordered, and the question being taken, it was decided in the affirmative, yeas thirty, nays twenty-eight, as follows:

Yeas—Messrs. Aldrich, Baldwin, Bates, Bartholomew, Cederstam, Coombs, Dickerson, Eschlie, Foster, Folsom, Galbraith, Hall, Hayden, Kemp, Lyle, Messer, Morgan, Murphy, North, Phelps, Perkins, Putnam, Peckham, Russell, Sheldon, Secombe, Smith, Walker, Winell and Watson.

Nays—Messrs, Anderson, Billings, Bolles, Butler, Cleghorn, Colburn, Coggswell, Coe, Davis, Duley, Gerrish, Harding, Hudson, Hanson, Holley, King, Lowe, Mantor, McCann, McKune, McClure, Mills, Robbins, Stannard, Thompson, Vaughn, Wilson and Mr. President.

So the motion to reconsider was laid on the table.

MILITIA.

Mr. MORGAN. I now move that the Convention take up report number twenty, upon the Militia, and proceed to its consideration.

The motion was agreed to, and the report was taken from the table.

The pending question was upon the amendment in the nature of a substitute, offered by Mr. FOSTER, heretofore published.

The substitute was adopted.

Mr. COLBURN. I move the following as an additional section:

"SEC. 3. All officers of the militia, (staff officers excepted) shall be elected by persons subject to military duty in their respective commands, in such manner as shall be provided by law.

I would simply say that this was adopted in Convention yesterday, and the substitute of the gentleman from Chisago (Mr. STANNARD) was not intended to cut it off, though by a misapprehension of his design, his substitute was adopted for the whole report. I now move to reinstate it.

Mr. STANNARD. I would say that the gentleman from Fillmore has stated my intentions correctly. I did not intend by my substitute to cut off that section. It was done inadverdently.

The amendment was adopted.

The report, as amended, was then ordered to be engrossed for a third reading.

TAXATION, FINANCE AND PUBLIC DEBT.

Mr. CLEGHORN. I now move to take from the table and consider at this time report number twenty-one upon Taxation, Finance, and Public Debt.

The motion was agreed to.

Mr. STANNARD. I hope that some gentleman who voted to strike out section six, will move to reconsider that vote, for I see that it debars the State forever from carrying out the intentions of any grant which may be made to the State for any public improvements.

Section six is as follows:

"SEC. 6. The State shall never contract any debts for works of internal improvements, or be a party in carrying on such works; except in such cases where grants of land or other property shall have been made to the State, especially dedicated by the grant to particular works of internal improvements, the State may carry on such particular works, and shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion."

Mr. GALBRAITH. At the request of the gentleman, I will move to reconsider that vote.

The motion to reconsider was agreed to.

The question then recurred on striking out the section.

Mr. STANNARD. In reference to section six, I will say that I, for one, am opposed to the State being a party to works of internal improvements generally; and I think it is proper for us to limit the Legislature in that respect. As a general thing, I think it is the opinion of a majority of the Convention to so limit the power of the Legislature. But this section merely provides for an exception to that rule, in order to enable the Legislature of the State to carry on such works of internal improvement as are particularly public in their nature. I hope members of this Con-

vention will well consider this thing. I find that there are different opinions, some being in favor of leaving the question undetermined, and leaving it within the power of the Legislature to loan the credit of the State for the purpose of internal improvements, while others are for restricting that power. I wish a full expression of the opinion of members upon that subject.

Mr. LOWE. I do not often have occasion to differ with my colleague. I believe I generally coincide with him. But in this question of restricting the power of the Legislature in regard to loans, I feel bound to differ from what I believe to be his opinion. I do not think this Convention ought to put this restriction upon the Legislature. I know of some instances in which it has been done, and in which it operated mischievously. It was done in New York, and it was found that the Legislature could avoid the Constitutional provision without difficulty. It was tried ia California, and it has been the source of great calamity to that State. I believe that the Legislature can, if they choose, avoid any provision of this sort which we may put into the Constitution.

I am opposed as a matter of principle to attempting to restrict the Legislature. It often operates badly, though some times it has operated well. But it is one of those powers which, I think, are essential to a good government. And we ought to be cautious how we cut off the power of improving our State. If the people exercise proper precaution in electing the Legislature, this power will not be abused, but if they do not there may great evil grow out of it. It might be well for the Convention to lay down the principle that the people must take care of themselves, and look well to the construction of their Legislative body; and that they must not look to the Legislature to protect themselves from the machinations of the Legislature. They must themselves exercise a strict supervision over the Legislature. When I see any departure from that course, I feel confident in my own mind that evil will result. The people should never be lead to suppose that Constitutional provisions will exempt them from the proper discharge of their own duties.

Mr. MORGAN. It seems to me that the gentle man from Chisago misunderstands the design of this section. In another report it is provided that the Legislature shall not create a debt. This section provides for an exception, where they may contract a debt. It is not restrictive in its character, but creates an exception. That I apprehend was the intention of the committee when they framed this article, and if this is stricken out the Legislature will have no authority to contract debts for carrying out improvements for which the means of payment are already provided.

Mr. LOWE. If that is the case I shall have occasion to change my vote. It has not been presented in that light before. If a provision has already been adopted and this is an exception to the general rule, I shall vote differently from what I intended.

Mr. KING. This section says that the State may have power to contract debts for works of internal improvement in cases where grants of land are made to the State for particular works of internal improvements; while section eight of report number five, on banking &c., says that the State shall not be a stockholder in any banking or other corporation, "nor shall the credit of the State be "given or loaned in aid of any person, associ- "ation or corporation." So it seems that this section applies to specific grants made for specific purposes, while the other provision prevents the State from becoming a stockholder in a banking or stock company, or from loaning the credit of the State. It is my impression, if this clause is stricken out, that the State never can have anything to do with the lands given to it, and hence, we would cut ourselves off from the benefits of any grants of land made to the State from any source whatever.

The question was taken on the motion to strike out the section, and it was not agreed to.

Mr. CLEGHORN. I move to reconsider the vote by which the words "for municipal, "educational, literary, scientific, religious, elee- "mosynary or charitable purposes" were stricken out of the first section.

The motion to reconsider was carried.

The question was then taken on striking out those words, and it was not agreed to.

Mr. MILLS. I move to amend the first section by striking out the word "eleemosynary." The language of the section immediately following that word has the same mean-

ing as the word itself. It is therefore merely repetition and surplusage.

Mr. PERKINS. I should prefer rather that several other words should be stricken out, and that that should be retained. It is a good word, an appropriate word, having a definite meaning, and found frequently in the law.

Mr. NORTH. I would enquire for information as to the nice shade of difference between "eleemosynary" and "charitable," for in my mind I have got to considering them as about the same thing. The word is obsolete except in the law works, and if it means the same thing as "charitable," and I think it is so understood, I am in favor of striking it out.

Mr. COLBURN. I hope it will be stricken out. It is possible that in explaining this Constitution to the people we may have a great deal of trouble in explaining this word to them. My friend from Fairbault (Mr. PERKINS) will have to explain it a good deal. (Laughter.)

Mr. PERKINS. I hope my constituents will have no more difficulty in understanding it, than the gentleman from Fillmore county. But it seems to me extremely foolish to strike out a word of that kind. But I presume if there is any gentleman here whose constituents will not be able to understand it, he will vote to strike it out. Probably that is why my friend across the way (Mr. COLBURN) goes for striking it out.

Mr. COLBURN. I did not mean to intimate that the gentleman's constituents would not be able to comprehend it, for we have ample proof of their good judgment and sound sense in sending their representative to this body.

Mr. HUDSON. I am decidedly in favor of striking out the word, and for the reason that I found myself in the chair yesterday, and while reading this section to the committee, I came across this word and could not pronounce it, much to my mortification. (Laughter.) Is not that sufficient reason why I should vote to strike it out?

Mr. GALBRAITH. I conceive that that word embraces much more than the word charitable, and I think it is used just as it is here, in contradistinction to the word charitable. You will find it in all works upon law, and the Constitution is the basis of all law "Charitable" means one simple thing, while "eleemosynary" means much more. means aiding and helping, either by charity or otherwise. A thing may be a charity while it is eleemosynary, and it may be eleemosynary while it is not charitable.

Mr. WILSON. The adjudications on the real meaning of the word "eleemosynary" have probably cost a great many thousand dollars. The real meaning has become well defined now, and it is well settled that there is a difference between that and the word "charitable." To leave it out might be the means of litigation which would cost a great deal of money again. When we go into the courts to adjudicate questions under this clause, we know exactly what "eleemosynary" does mean, while the lines are not distinctly drawn in regard to the other word.

Mr. GALBRAITH. There is in my mind a case, involving the meaning of this word, in which the ablest talent of the country was employed. I refer to the Girard will case, and the great contest was whether that Girard institution was an eleemosynary, or a charitable institution. Webster was one of the counsel, and upon the argument of the cause more law was cited than I ever read.

Mr. NORTH. I would respectfully suggest that if there is a chance for so much labor, and so much expense in getting at the nice shade of difference in meaning between those two words, perhaps there might be economy in avoiding that state of things in this State, by leaving the word out entirely.

Mr. WILSON. I hope that will not be done. I am astonished at the turn put upon this matter by the gentleman from Rice county, (Mr. NORTH) because it does not hit the question before us. Nobody pretends that there ever was a litigation as to the difference of meaning between those two words, but that there has been litigation as to the exact meaning of the first word.

Mr. BATES. I do not think this is a matter of very great importance, though I think there is a difference between the two terms. I consider that the former includes the latter and a great deal more, and I hope it will be retained.

Mr. NORTH. Will some gentleman point out the difference between the two words. I

inquired for the information to start with, and I have failed thus far to hear any definition of the word which does not mean "charitable."

Mr. MILLS. It is an institution, giving charity, and the terms immediately following it expresses the same idea. I consider that they are one and the same thing.

Mr. COGGSWELL. I am decidedly opposed to striking out this word, for I have a general recollection about a distinction being made between that word and "charitable," and made, too, by a very respectable tribunal. I do not distinctly, recollect the point made in the Girard case, but I do distinctly recollect the distinction made in the Dartmouth college case, and if I understand it, the word "eleemosynary" as applied to institutions is, that it is a donation of a certain amount of money or property, in the first instance, as the foundation upon which the institution is raised; as was the case with Dartmouth College. While a charitable institution is an institution which may receive charities or bequests from time to time, and whose objects may perhaps be different from a mere eleemosynary institution. Now an eleemosynary institution may have for its object, perhaps, other and different things from which a mere charitable institution would have. A charitable institution would have the dispensation and distribution of charity, I care not what it consists in, while an eleemosynary institution may differ entirely from that whose objects is charity purely. It may be an institution for educational purposes, and that certainly would not make it a charitable institution. I am perfectly satisfied in my own mind that there is a clear distinction between the two words "charitable" and "eleemosynary," and I think if gentlemen will take the the trouble to look at the argument of Mr. Webster in the Dartmouth College case, they will find that he applies the word "eleemosynary all through in contradistinction to "charitable."

Mr. ALDRICH. I am in favor of striking out the word. I want a Constitution which all can understand. I do not mean to say that my constituents do not understand the meaning of this word; but that I certainly do not, and I went so far as to inquire of the gentleman from Winona, whether this word was Greek or Chippewa. (Laughter.) I am afraid too, that its retention will endanger the adoption of our Constitution. And my friend from Fillmore, I believe, has gone so far as to say he will vote against the Constitution unless it is stricken out. (Laughter.)

Mr. FOSTER. A friend near me says he has learned considerable in regard to the meaning of this word. I have no doubt we all have, and I hope it will be retained so that when it goes before the people, and they inquire what it means, we shall have an opportunity to display our knowledge. I think we are competent now to become teachers.

But, seriously, it does strike me that it does mean something more than the word "charitable," and that it ought to be retained.

Mr. MURPHY. I hope this big word will be stricken out. I have several reasons for it, but I cannot enumerate them all. It certainly is a technical law term, and I see all my friends of the legal profession are in favor of retaining it. Now in looking over the Constitution from beginning to the end, I do not find one single word which is applicable to my profession particularly. I do not find a single medical term in it. Now I do not want law to be put ahead of medicine, and, therefore, I shall vote to strike it out.

Mr. SECOMBE. I would propose a compromise on this matter. There seems to be a great deal of feeling upon one side and the other, and I propose to move that it be submitted to the people as a distinct proposition. (Laughter.)

Mr. DAVIS. I desire to know if it should be submitted as a distinct proposition, whether the gentleman from St. Anthony would not change his position and vote to reconsider? (Laughter.)

Mr. FOSTER. I would inquire, whether the gentleman from St. Peter would get up an entire new Constitution?

Mr. MORGAN. There is a distinction between the two words, and one that is applied constantly. Eleemosynary institutions are such as poor-houses, asylums for the blind and insane. Charitable institutions are such as bestow charities strictly; for instance, schools and academies, where the tuition is given to the pupils. This word occurs in a similar connection in many of the Constitutions of our State, and because of this known

distinction between the two words; and, I think, if we undertake to strike it out because we do not understand the difference between those two words, we shall commit an error.

Mr. SHELDON. It strikes me that this word is an important one, and that it covers a class of property which should be exempt from taxation. But, as this word has given rise to considerable ambiguity, I think we might obviate all difficulty by changing the phraseology, in this way: strike out all after the word "mixed," and insert—

"But burying grounds, public school houses, and houses used exclusively for public worship, institutions of a purely public charity, public property, used exclusively for any public purpose, and a certain portion of personal property, may, by general law, be exempt from taxation."

I find that provision in the Ohio Constitution.

Mr. COGGSWELL. I think we have had enough discussion upon this important amendment, and I move the previous question.

The previous question was seconded, and the main question ordered to be put; and, under the operation thereof, the amendment, offered by Mr. SHELDON, was not agreed to; and the motion to strike out the word "eleemosynary," was also disagreed to.

Mr. SECOMBE moved to amend, by inserting the word "other" before the word "charitable" in the fifth line of the first section, so that the clause would read, "Eleemosynary or other charitable purposes, &c."

The amendment was not agreed to.

The report, as amended, was then ordered to be engrossed for a third reading.

INTERNAL IMPROVEMENTS.

On motion of Mr. DICKERSON, the Convention resolved itself into a Committe of the Whole, (Mr. COE in the Chair,) upon Report No. 22, on Internal Improvements.

The report was read as follows:

"Internal improvements shall forever be encouraged by the Legislature of this State; but in no case shall the credit of the State be pledged for any object of internal improvement, nor shall the Legislature in any case create or incur a State debt for this object, without at the same time providing means for the payment of the interest and final liquidation of the same."

Mr. McKUNE. I move to amend the section by striking out the word "forever," in the first line, and all after the word "object," in the fourth line, so that it shall read as follows:

"Internal improvements shall be encouraged by the Legislature of this State; but in no case shall the credit of the State be pledged for any object of internal improvement, nor shall the Legislature in any case create or incur a State debt for this object."

It appears to me that the effect of the section, as it is reported by the committee, would be to repeal all the restrictions which we have placed upon the Legislature to prevent the State from becoming a partner in any public works except under a grant of land to the State for particular purposes.

Mr. FOSTER. I move to strike out the whole section. I think that section thirty-six of Report No. eight, and section six of Report No. 21, covers the whole ground of this report.

Mr. McKUNE. I believe the motion of the gentleman is out of order.

Mr. FOSTER. My motion is an amendment to the gentleman's motion.

Mr. McKUNE. Well, I will accept the amendment, as a part of my motion.

The motion was agreed to.

Mr. THOMPSON. I now move that the committee rise and report back to the Convention the report, with a recommendation that it be wholly stricken out.

The motion was agreed to, and the committee rose and reported accordingly.

The recommendation of the Committee of the Whole was concurred in, and the whole report was stricken out.

PUBLIC PROPERTY.

On motion of Mr. THOMPSON, the Convention resolved itself into a Committee of the Whole (Mr. FOSTER in the Chair,) upon the report of the committee on Public Property. (For Report, see proceedings of August 12th.)

The report was read by sections, for amendment and discussion.

"SEC. 2. The people of the State in their right of sovereignty, are declared to possess the ultimate property in and to all lands within the jurisdiction of the State; and all lands the title to which shall fail from a defect of heirs, shall rever or escheat to the people."

Mr. McCLURE moved to amend section two, by striking out the last word, and inserting in lieu thereof the word "State."

The amendment was agreed to.

Mr. COGGSWELL. I move to strike out all after the word "State," in the third line. Those words which I propose to strike out, I never have known used before.

Mr. HUDSON. The very same language is found in the Wisconsin Constitution.

Mr. COGGSWELL. That may be, but I am inclined to think it is not proper language to be used in a Constitution. I think I have a case in my mind where I think, if this provision is adopted, it would work a hardship, and contrary to what all of us would say was right, just and proper under the circumstances. A man and his wife were killed instantly by lightning. At the time of their death, they had considerable property in this Territory, and they had an adopted son. It was well known among the neighbors that it was the intention of that man and his wife, in case they should have no heirs, that the adopted son should have their property after their death. An investigation has been made, I understand, for the purpose of ascertaining whether there are any persons who could possibly take the property as heirs, and so far that investigation has proved unavailing. They were persons who came into this Territory from England a short time ago, and the story is that they have no heirs even in England. If that is so, it seems to me that the adopted son is the person who ought to have the property, and who would have had it had the father and mother lived to will it to him. Now this matter should be so left that the Legislature may take into consideration cases of that kind. I have no doubt in that case, if the parties had had time, they would have willed the property to the adopted son.

I can conceive of many other cases where a provision of this kind and character in the Constitution might operate as a hardship, and hence I think we might as well leave the matter with the Legislature and let them dispose of it as they think proper under all the circumstances.

Mr. MORGAN. It seems to me that the amendment offered by the gentleman from Steele County does not help the matter at all. At common law where a person dies leaving property, it goes, in default of heirs, to the State. Now this section merely adopts the common law, and if it is left out it does not change the matter in the least, and if there had been such a provision as the gentleman desires, it would not have relieved the case to which the gentleman alluded. The case must go to the Legislature anyway.

Mr. COGGSWELL. I would say that if this is incorporated as a constitutional provision, the Legislature would have no right to depart from it; whereas if the will of the common law should obtain, the Legislature would have power to change that rule of the common law. It is with that view that I offer the amendment.

Mr. SECOMBE. The instance mentioned by the gentleman is not a similar instance to those which are remedied or provided for by the Legislature, when they provide that such adopted children shall inherit property in the same manner as though they were heirs by birth. Consequently upon the death of the parent by adoption, there would be no defect of heirs.

The amendment was rejected.

Mr. BILLINGS. I move to amend section one, by inserting before the word "river" in the fifth line, the word "navigable" so as to restrict common highways to navigable rivers. I think that is in accordance with the ordinance of 1787. In first reading over this first section it seemed as if the intention of the committee was to give the right of common highways to those waters only which were the boundaries of the State. But after looking over it carefully I came to the conclusion that the language will make common highways of waters leading into the rivers which form the boundaries of the State, for the language is, "the said rivers and waters "leading into the same"—the word "same" referring to the rivers and waters previously mentioned. Now no one supposes that we intend to give to individuals of other States the right to pass up and down other waters than those which are boundaries, unless they are navigable waters.

Mr. SECOMBE. I would state for the benefit of gentlemen that this language is an exact transcript of the section of the Enabling Act under which we are organizing a State.

Mr. BILLINGS. The ordinance of Congress of 1787 reads as follows:

"No taxes shall be imposed upon the lands and property of the United States, and in no case shall

non-resident proprietors be taxed higher than residents; the navigable waters leading into the Miasissippi, and St. Lawrence and the camping places between the same shall be common highways and forever free as well to the inhabitants of such Territory as to citizens of the United States, and those of any other State which may be admitted into the confederacy, without any tax, imports or duty therefor."

I think where we find a certain word, such as the term "navigable" in this clause I have read, which has received a definite construction for a long number of years, we should be very cautious in excluding them. We should observe the old land marks and not establish new rules unless we can see a decided and certain benefit to result from so doing.

Mr. SECOMBE. As I stated before, this section is a transcript from the second section of the Enabling Act, which the committee were of the opinion, was the rule to govern in this case. That act says: "and said river" that is the Mississippi river—

"And waters leading into the same, shall be common highways and forever free, as well to the inhabitants of said State as to all other citizens of the United States, without any tax, duty, imports or toll therefor."

This Convention has no right to limit it in that way. Congress has made it a condition that the waters leading into the Mississippi river shall be free.

Mr. MORGAN. I cannot think that Congress intended to make every affluent of the Mississippi or St. Croix, navigable streams, or common highways. The reading of this line would however imply that all the waters leading into the Mississippi should be common highways. Now if you make a common highway of every stream emptying into the Mississippi, you cannot erect a bridge over any of them because that would be erecting an obstruction. With that reasonable construction of the intention of Congress I believe it would be perfectly safe for us to introduce the word "navigable" as proposed by the gentleman from Fillmore county.

Mr. SECOMBE. I have only a word more to say. If Congress intended to make all the waters leading into the Mississippi, whether navigable or otherwise, common highways, then we have no right to change that intention of Congress, and if Congress in using those words, did not intend that, if we adopt the same language, we shall not intend it. We will have the same liberality of construction, that the act of Congress will have, and we are entitled to nothing more.

The amendment was rejected.

Mr. ALDRICH moved to amend section two by adding thereto the words "for the use of common schools," so as to make all escheated property go to the State for the use of common schools.

The amendment was agreed to.

"SEC. 4. The proceeds of all lands that have been or may hereafter be granted or set apart and reserved by the United States to the Territory or State of Minnesota, for the use and support of a University, shall be and remain a perpetual fund to be called the 'University Fund,' which shall be appropriated to the use and support of the 'University of Minnesota,' incorporated by an act of the Legislative Assembly of the said Territory, and for no other purpose, in such manner as the Legislature of the State shall prescribe, in accordance with the provisions of the ssid act of incorporation, and not otherwise."

Mr. ALDRICH. I move to amend that section by inserting after the word "University" where it first occurs, the words "and all "other donations for University purposes."

The amendment was not agreed to.

Mr. BILLINGS. I move to strike out all after the word "fund" in the fifth line. I move this amendment, acting somewhat upon the so oft repeated objection, that we should not legislate in the Constitution, and believing that the portion I move to strike out savors very strongly of legislation of the most particular kind. That part of the section which precedes the word fund, secures to the University of Minnesota the grants of land heretofore made or which may hereafter be made, and the part which follows, seems to my mind, to conflict with the eighteenth section of the act incorporating that University. That act is as follows:

"The Regents, if they deem it expedient, may receive into connection with the University any college within the territory, upon the application of the Board of Trustees, and such colleges so received shall become a branch of the University, and be subject to the visitation of the Regents."

It would seem that the language of this section would imply that the fund received shall be held and called the "University fund," and be applied to the support of that single University and no other. The language may not be quite broad enough to embrace that idea

fully, but it certainly has a tendency that way and it certainly is not as good language as that of the act incorporating the institution.

Mr. BALCOMBE. The gentleman's objection to the latter part of that section would be the very reason why I should vote to retain it. Now sir, I am in favor of having that institution located at one place, and one place only, in the future State of Minnesota. I am decidedly opposed to the division of the University fund. I am now, and always have been in favor of fixing that institution permanently and of making the fund indivisable. Whether this Convention is prepared to do that in this Constitution, I know not; but I believe this is the proper place to do it. I am ready, so far as I am concerned individually to do it, and I would like to have it known now, whether it is the intention to leave the Constitution in reference to this matter, in such a way that that University can be shifted from one place to another, year after year; and also, in the second place, whether the fund is to be left in such a shape as that it may be divided up and shifted about. If such is the understanding and intention I give full notice, that I am going to work to get the University removed to Winona, and if I cannot do that, I shall do what I can to establish a branch at Winona. And at the same time that I give notice of that, every other gentleman in this Convention, who represent a different town, has the same feeling and will give the same notice. Then what will be the result? The result will be that every little town in the State will be bidding for that University, and for a part of the fund of that institution to be appropriated or expended upon their respective town sites.

Now I say that I am in favor—though perhaps it would not be judicious to make such a provision in the Constitution—of locating the University permanently; and I am in favor further of making the fund indivisible. If it is left to be divided up, every little town will be trying to lobby a bill through the Legislature, to get hold of a portion of it, and to establish some little institution in each place. I happen to be one of the Regents of that University, and so long as I am such, I shall oppose the division of the fund, and its appropriation otherwise than at one place in the Territory. I am satisfied with the location where it now is. If however it is understood that we are to have the privilege hereafter, whenever we can lobby a bill through, to get any portion of that fund we can, for a branch institution, I will be ready to go for Winona.

Now I suggest whether it is best to place the fund in such a situation that it shall be made the cause of corrupting the Legislature —a subject so many gentlemen have frequently referred to?

Mr. BILLINGS. That speech is all for buncombe, and nothing else, because if the gentleman is prepared to discharge the duties, which he says are most unfortunately cast upon him, he should have read the act of incorporation. I am ready to believe that he is as ignorant of the act as he is of his duties. Section twelve says that "the University of "Minnesota shall be located at or near the "Falls of St. Anthony," and there it is fixed and located, and if it were not fixed and located at or near the Falls of St. Anthony, I am not one of those gentlemen who would pitch in and take it away, and disturb its permanency. Let it remain there forever, and let Winona, with her Academies entirely alone.

Besides it is not in the power of the gentleman or of any Minnesotian to distribute the University fund among academies. If the gentleman wants an institution of learning at Winona, let him aim at something higher than academies. That idea is effectually repealed by the eighteenth section of the act of incorporation. "The Regents, if they "shall deem it expedient, may receive into "connection with the University." Now what does that "receive into connection with" mean? Does it mean a division of the University, the establishment of a branch here and a branch there? Not at all. It would be torturing the language to say that to "receive in" meant to divide up the fund. And what may they receive into connection? "Any college," not academy. Now I am not in favor of diverting one dime which has been appropriated, or may hereafter be appropriated, from the purposes set forth in the act incorporating the University of Minnesota as located at St. Anthony. It suits me very well, and it is all that I could ask. I would oppose any legislation for diverting

that fund, for crippling the resources of that institution, or change its location. Is not the gentleman satisfied with that? He cannot but be. But that does not meet his view of it, because if it is to be divertable, he is for diverting it. He would take it to Winona. I think I am above and beyond any design of that character. At least I have no traps for securing any portion of that fund. I have no plans to lay. I know nothing of them. Whatever is legal, fair, equitable and honest, and comes fairly within the scope of my action, I will do. But no traps, no plans, no wire pulling, no "skulldugery" for me.

The gentleman says this act may be repealed. It may, sir, and it may yet be repealed by that gentleman's influence, and vote, who now seeks to make buncombe by making it permanent. I am opposed to its repeal. Instead of being its enemy, I am its friend, and want it now and forever as it is.

Mr. SECOMBE. If I understand the motion of the gentleman from Fillmore county, it is to strike out all after the word "fund" in the fifth line. Now I cannot conceive what reasonable object the gentleman can have for making that motion. He says that the object of the section is to legislate in a direction opposite to the act of incorporation. Now if the gentleman will read the remainder of the section which he proposes to strike out, he will find that quite the reverse, from that is the object of the section, for it provides that money, being a perpetual fund, to be called the "University Fund, shall be appropriated "to the use and support of the University of "Minnesota, incorporated by the act of the "legislative assembly of the said Territory, "and for no other purpose, in such manner as "the Legislature of the State shall prescribe, "in accordance with the provisions of the "said act of incorporation and not otherwise." Far from trying to divert the funds from the channel prepared by past legislation, it distinctly directs them in that channel, and provides that they shall not be taken out of it. Now I have a word to say in regard to this University. It was my fortune without any consultation on my part to be placed as Chairman of the committee which made this report. It is also my fortune to have resided for the last six years at St. Anthony, the point at which, and previous to that time the University of Minnesota had been located by the Territorial Legislature, and I presume I might be excused if I should feel a little more interest inthis matter than I otherwise should. But, Mr. Chairman, my interest is for the University of Minnesota, and I say to gentlemen of this Convention, from whatever part of the Territory they may come, that rather than see the University of Minnesota divided up into colleges, into branches, and scattered throughout the Territory, I would see it all removed —every vestige of it, to Chatfield, or Winona, or any other part of the Territory; and so would the constituents I represent here, rather see every vestige of it removed from its present position and transferred to any other part of the future State, than see its influence destroyed by a division.

Now what is the object of a State University? The very term itself shows what it is. It is to encircle about one point, all the wisdom and all the intelligence that may be within the province of the State to encircle, and to send out and diffuse education through the whole State. It is the object of the fund, as expressed in the act of incorporation, to provide for the students of the State of Minnesota, free of charge and expense upon their part, enlarged facilities of education. It is divided by the act of incorporation into five departments,—embracing all the necessary departments of instruction. And it is the object, and reasonable intention of the act of Congress, in making the grant of land that we shall a State University one and indivisible. And, although, Mr. Chairman, it was my desire, as a member of this Committee, as I have indicated previously, in offering an amendment to the article on education, that this Convention should determine that this University should be one and indivisible, I did not ask the Convention to provide for that in this section, but only that it should be put in the form in which it now is,—merely appropriating the proceeds of those lands to the University under the act of incorporation, and leave it, rather than burden it with other measures and have it defeated entirely. And now I ask the gentlemen of this Convention to locate that University permanently either where the Legislature seven years ago saw fit to locate it, or at some other place, and provide that it shall remain permanent. I ask

then, at the same time that it shall not be scattered abroad and destroyed.

Mr. WILSON I move to amend by striking out all after the words "support of" in the fifth line, and insert "a university, and "for no other purpose, in such manner as the "Legislature of the State shall prescribe."

Mr. BILLINGS. I accept that in lieu of my amendment.

Mr. WILSON. That, sir, will leave this matter just where it is now; leave the university just where it is; and leave all the lands that have been or may be appropriated for it, to be applied just as they have been applied, or as the original section provides. It cuts out of this section all this minute legislation, and it cuts out of the section that part which provides for the adoption of a charter, of the provisions of which we know nothing. We do not know what sort of a bill our friends from St. Anthony may have got. We suppose that they have got as good a one as they could, and they are somewhat celebrated up there, for getting good acts passed. I admit the force of the language which has been echoed and re-echoed through this hall, about legislating in the Constitution. I am opposed to it. Leave this matter where it is, and let the Legislature take care of it. There may be many things necessary to be done by the Legislature concerning this University, and which, if we leave the section as it now stands, could not be done. For one I am not here advocating a removal of the university from St. Anthony. I have no idea of such a thing. I am one who will always protest against the adoption of such a course, but I am not one who is ready to come here and say that the Legislature shall never make any changes in reference to it. I have heard it said that there was a trick in this location which runs in this wise, St. Paul, St. Anthony and Stillwater, comprise the Territory of Minnesota; St. Paul shall be the seat of government, St. Anthony the seat of the university, and Stillwater the seat of the State Prison. I understand that there has been expended up there for building some thirty or forty thousand dollars, and I will say, and every gentleman in this hall knows that it is true, that five or six thousand dollars is the very utmost that ought to have been expended hitherto. All that has been expended over that amount must have been expended for the purpose of preventing the people from moving it. If it has been expended for such a purpose, while I am willing to let the institution remain there, I am not willing to encourage such a course. People do not to come Minnesota for the purpose of bringing their children to be educated at St. Anthony; and I say there was no need of expending more than six or eight thousand dollars. I do not want to make any further provisions respecting it until I know the wishers of the people concerning it. It is a matter of legislation exclusively. I am sorry to hear my friend and colleague (Mr. BALCOMBE) get up and say that by voting for this, we vote for dividing the University fund, and that we are in favor of getting the university at Winona and elsewhere. That was never talked of and he was the first to suggest it. We live in the southern portion of the Territory, and do not expect any such thing. We are to live in the State and we have an interest in doing right and seeing right done, and I do not know whether the people want the University located there, or whether they want us to adopt such a provision as is contained in this section. I do not known any thing about it. Now all this talk about dividing the University comes with a bad grace and has a bad effect. It does not meet the question fairly. Especially does it come with bad grace from gentlemen who have voted against measures of protection which the people need, and voted against them upon the express ground that they savored of legislation. Is not this legislation? is not this taking out of the hands of the people what they may wish to change? I like St. Anthony, and I like her delegates here, so far as I know them, but I like other places just as well. I do not know that the people want to establish that institution there permanently. That is a sufficient reason for my not voting to establish it. I do know that my people did not send me here to establish any such thing. They sent me here to frame an organic act for the advancement of the whole people, and not a particular locality. This does not savor even of a general law. It is local and local only. It is legislation and minute legislation too. And when gentlemen get up here and bluster about it, they ought to take a retrospective view, and then they

will take a different course. Now our opposition to this section is not because we have any feeling against any locality; not because we want to divide this fund, for we protest against any such thing; it is not because we wish to remove the university, for we have no idea of that; but because it is none of the business which we were sent here to do.

Mr. NORTH. The gentleman from Winona who has just taken his seat, repeatedly alludes to what he calls a trick by which the university was located at St. Anthony. I happen to be a little better acquainted with the measure by which it was located, and I am happy to inform the gentleman that there was no trick, none whatever. The subject of the University was not introduced into the Legislature at all until after the capital was located at St. Paul, and the prison at Stillwater. The University bill was introduced as a separate measure, independent of the others entirely, and after the others were disposed of. While the other questions were being disposed of, I think not an individual in the Legislature thought about the University. That was an after thought, and I claim the credit, if there be any credit, and the disgrace, if there be any disgrace, of introducing that bill and working to get it through.

That gentleman alludes, too, to the fact that gentlemen get up here and bluster. Now I respectfully submit that the style of oratory of that gentleman comes as near to his own description of a blustering style as that of any gentleman upon this floor, and perhaps it would be as hard a thing as I need to say, to turn the picture round to the source whence it came.

The CHAIRMAN. The chair would remark that it is not strictly in order to say that any gentleman blusters in this Convention.

Mr. NORTH. I would inquire if it is proper to say so in Committee of the Whole? (Laughter.)

I was simply taking the remark which was sent out, and sending it home again to roost. Another gentleman is accused of trying to make Buncombe because he advocates a permanent locality for the University. I would respectfully submit that the charge would be quite as applicable where it comes from, for all I can see, as where it is attempted to be applied. I hardly think it is courteous to charge others with improper motives, and improper manner of advocating what they believe to be right upon this or any other question.

Now I can see—and in saying so, perhaps, I come in for a share of the charge of making Buncombe—I can see some reason why the University should be permanently located, and why it should remain a permanent institution without the liability of being removed from one place to another, or of being split up. Gentlemen speak as though this talk about its being divided is all idle and nonsensical. Now gentlemen know that there are threats of having it removed. Massachusetts can incorporate a provision into her Constitution giving a permanent location to her institution—Harvard University. Michigan has a provision for the permanent location of her University, and other States have done similarly. Now if there is any institution in a State which it is difficult to remove, and which ought not to be removed, it seems to me it is a University. If it remains permanently in one locality, contributions will be made of a valuable character, which will not be made if it is liable to be removed at any time. If an institution were no larger than Yale College was when it was removed from Saybrook, it would be of comparitively trifling importance, for when that institution was removed to New Haven they took all its library and cabinet in a one-horse cart. But when an institution becomes so large that it is not capable of being removed easily, it seems to me that it should be made permanent. If gentlemen are not in favor of its being made permanent where it is—and there is no more favorable locality, or one more convenient—place it somewhere else. If they are in favor of making it one and indivisable, why not let it stand, and take it out of the danger of temporary legislation? Let it remain so that it can acquire a character for stability and value. It seems to me that it is reasonable, right and proper that it should be a permanent institution, and that it should have all the character that can be given to it by such a clause in the Constitution.

On motion of Mr. HUDSON, the committee then rose, reported progress, and asked leave to sit again.

Leave was granted.

On motion of Mr. KING, (at twelve o'clock and fifteen minutes,) the Convention took a recess until half-past two o'clock.

AFTERNOON SESSION.

The Convention re-assembled at half-past two o'clock.

PUBLIC PROPERTY.

On motion of Mr. SECOMBE, the Convention resolved itself into a Committee of the Whole on the report on Public Property, (Mr. HUDSON in the Chair.)

The question recurred on the amendment offered by Mr. WILSON, which was pending when the committee rose in the morning.

Mr. BALCOMBE. When the motion was made this morning for the committee to rise, I was about to say a word or two in reference to some remarks which were made by a gentleman upon this floor, as to the motives and objects I had in submitting the remarks I did this morning. In what I said upon the amendment proposed by the gentleman upon my right, (Mr. BILLINGS,) I said that I was in favor, so far as I was concerned personally, of this educational institution being permanently located; and further, that I was in favor of making that fund, appropriated for that particular educational interest, an indivisable fund. My colleague took pains to state that all those remarks were for Buncombe.

Mr. WILSON. Will the gentleman permit me to explain. I did not use the word Buncombe a single time during my remarks.

Mr. BILLINGS. I did.

Mr. WILSON. It is fathered by the gentleman upon the other side.

Mr. BALCOMBE. It must be that my ears are very much at fault, for I certainly heard the gentleman make the remark, and I did not hear the remark from the other gentleman. Now I think this kind of remark and thrust, under present circumstances more particularly, are not in place. I believe myself that I was sincere; perhaps I was not, but I think I was, and I think I did not make them for Buncombe. It may be that I may be mistaken, but that is my present impression. I think, moreover, that it has been known for two years to many who sit in this body, and to many outside, that such has been my opinion, and that I have acted accordingly whenever the matter has been presented to me—and I may say that it has been presented to me a great many times by gentlemen who happened to be town corporators in Southern Minnesota, and who desired that their town sites should have the benefit of that particular fund. As I had something of a reputation of being a removalist, I was approached several times to see whether the University could not be removed to some other locality. Now while I am sometimes in favor of removing seats of government, and perhaps other things which are mere matters connected with some State policy, I am decidedly opposed to removing the State University, and I am in favor of fixing it at some particular spot, so that it never can be removed. Its present location is central within the State—as much so as any we could select.

For these reasons I made the remarks I made the remarks I did, that I was in favor of its being located permanently, and that the fund should be indivisible; and for that reason I was accused of making a Buncombe speech. The gentleman was simply mistaken, for if I were to make such a speech, I should speak in favor of its removal into Southern Minnesota, where I am very particularly interested.

Mr. COGGSWELL. I did not think I should make any remarks upon this question until I saw it was pressed in certain quarters with an earnestness which I did not expect to see. It is true I have kept a little watch of this matter from the time the attempt was first made, to have this fund held as an indivisible fund, and I did not suppose that the same thing would be attempted in a different manner, when it had once been voted down. But I find the same thing now brought before the Convention, though in a worse form.

There have been seventy-two sections of land granted to this State for University purposes, and that is to be a fund which belongs to the State, and not to any particular locality. That fund is to be appropriated to the establishment of a University, and it cannot, under any circumstances, be appropriated to any other purpose, even though this Constitution and the Legislature should direct otherwise. The terms of the original grant must be complied with. In my judgment it is not neces-

sary that this Convention should pass any rule or regulation in regard to the matter. That is my idea about it. But if anything is to be done, I desire that it shall be done in a manner that shall benefit the whole State, and one part or parcel just as much as another.

I find, also, in looking at the history of this matter, that those seventy-two sections of land have all been selected. It is true that the title still remains in the United States Government; but upon the strength of that title which will ultimately be vested in the State or Territory, individuals have gone on and made a selection of those lands. Now I have been upon some of them, and I think they are very valuable. I know that some of them are worth at least thirty dollars an acre to-day, and on an average they are worth ten dollars an acre; that seventy-two sections of land at the rate of ten dollars an acre would amount to upwards of four hundred and fifty thousand dollars. That amount of money, together with the interest which will accrue from it, is to be appropriated for the benefit of a University, and that University should enure to the benefit of the whole State. Now I find, in looking at the language of this report, that it has been very carefully and very cunningly drawn, and I find that certain language has been incorporated into it, which I find in a certain act which was passed by the Territorial Legislature previously to this time. I find in that act that this University has been located at or near the Falls of Saint Anthony, and here I find to-day men upon this floor, coming from that same place, at or near the Falls of Saint Anthony, urging and requesting us in the strongest terms, to have that act, which has established that University, founded upon a fund of four hundred and fifty thousand dollars, and the interest which may accrue hereafter, made a part and parcel of the Constitution of the State of Minnesota. Now before I re-enact that law, which I understand the gentleman from Rice county had the honor of originally framing—and if there is any honor, he certainly is entitled to it—I say before I propose to assist in incorporating that law into our Constitution, I desire to look to some other parts and portions of this Territory, and see if they, too, have not some rights in this matter.

Now in the first place, I pretend to say that that amount of money and the interest accruing from it, is sufficient not only to establish one University at or near the Falls of Saint Anthony, but branches in other and different portions of the State. And I find, too, that the gentleman who drafted this particular statute, had that same thing in mind, and, although he proposed to have that thing done in the shape of Colleges, or something of that kind, in my judgment that is not exactly the right way and manner, to say the least of it. Now, sir, if this fund is sufficient, not only to establish a State Institution at or near the Falls of Saint Anthony, but also to establish branches in other places, it does seem to me that other localities would have the right to speak in regard to this matter. We come from other localities that are ready and wiling to give, not only three thousand dollars—for I understand that that particular locality at or near the Falls of Saint Anthony did give or secure the full sum of three thousand dollars for the benefit of this University—but to give fifteen or twenty thousand dollars for the purpose of securing the expenditure, near their respective neighborhoods, of this four hundred and fifty thousand dollars or the interest accruing therefrom. It does seem to me that if we mean to represent the interests of our respective localities in this matter, we should take into consideration some of these facts and circumstances.

Now, representing, as I do, a certain portion of Southern Minnesota, I say for one that I am not willing that this vast amount of money which must, and necessarily will be expended at or near the Falls of Saint Anthony, shall be spent there for the purpose of building up that particular place, increasing and enhancing the value of property about there, while my little place down in Southern Minnesota derives no benefit from it in any way, shape or manner. That the whole of this thing should be vested in certain Regents, appointed by the Legislature, and having no power, perhaps, except what is vested in them by this particular legislative enactment, I am not willing that it should be done, and I will not have it done.

Now I say that instead of coming up here in solid phalanx and attempting to push this thing right through as a local measure, it

seems to me that we should look at the matter and see how the thing stands. Suppose I should come in here with a proposition not half as ridiculous as this; suppose I should come in here with a proposition which necessiarily must and will come before the Convention, to remove the capital from St. Paul to my little place of Owatonna, do you suppose these men from St. Anthony, would be in favor of that local measure? Do you suppose they would vote for the removal of the capital to Owatonna or any other place? No sir, they would say that is a matter of local legislation and we did not expect you would ask for it. Yet it is a legitimate matter before the Convention, and it is within our province, and we will have to act upon it. Now we do not ask that any such local measure shall be passed by this Convention. We know it would benefit our particular locality by the expenditure of a large amount of money, but we know it is a local measure and that we have no right to press it upon this Convention. It is just so in regard to this university fund. It is a fund given by the federal government to the whole State, and instead of its being swallowed up, as a certain amount of it has been swallowed up, in a certain place illegally, it should not be done, and I say, that with my consent it shall not be done. It shall not be done by my vote or my sanction until it has been submitted to the Legislature, when the representatives and agents of the people come here with the express view of deciding the question for themselves. The land is perfectly safe at the present time; the title is in the federal government, and if the Legislature has gone so far as to authorize bonds to be issued, let those who have taken that step learn the responsibility. It is a fund given to the whole State, and as a part of that State, I say that my locality shall have a share. I for one will not consent, to ramming into our Constitution a provision locating this university permanently at St. Anthony, carrying with it the expenditure of a large sum of money every year, which is calculated to enhance the price of property, in that particular locality, without establishing branches in any other portions of the Territory, when there are funds and means of carrying it out; I say I will not consent to that, and that my people will not consent to it.

Therefore I say leave the whole thing with the Legislature; and let our agents, the Legislature, come here, with the express understanding that they shall dispose of this magnificent fund. Such are my views and sentiments on this subject.

Mr. NORTH. I do not know as there is any use of discussing this question any further because the gentleman from Steele county tells us he will not have this or that done, as though he had made up his mind to that, and had come to the conclusion deliberately and had the power to carry it out. If that is so perhaps we had better stop where we are. But seriously, if there is any reason why there should be permanency given to that institution in this Constitution, it seems to me that the gentleman's argument shows that as conclusively and clearly as almost any one thing. Now what kind of an idea can that gentleman have of a university for the State of Minnesota which is to be scattered around every neighborhood of our entire State? He claims a portion of it for Owatonna and argues that every neighborhood is entitled to a share of it.

Mr. BALCOMBE. We want some at Winona to.

Mr. NORTH. They want some at Winona.

Mr. WILSON. We want nothing at Winona. He who says so is not a friend to St. Anthony.

Mr. NORTH. Well that seems to be a matter unsettled; some want it and some don't. And up here at Shakopee they want it. Now the idea that because a University is located in one portion of the Territory, therefore the people of other portions of the Territory have no interest in it is absurd. I certainly should feel no interest in an institution cut up into slices so small that every neighborhood could have a part of it. We have an institution of that kind and it is provided for—our common schools. Lands have been given us for that specific purpose. Owatonna will get her share. Congress, in her liberality, has made a donation of lands for another purpose and that is for a University, and a University, I suppose means a University in the ordinary acceptation of that term. It does not mean an institution cut up into such small portions that every school district in the

State can have a piece of it. Now the charter of that institution provides that colleges in different portions of the Territory, by making application may become branches of it. What more does any reasonable man want than that. Does he desire that every school district may have a share, and become a branch of the University? If we want to make our institution contemptible and of no use whatever, and leave it so that every neighborhood in the State may clamor for a share of it, and get it, I apprehend that the $450,000 will be of very small service to the State, so far as educational objects are concerned. But, it seems to me that if the fund is applied to a permanent institution, and such branches as come under the head of colleges, it is liberal enough for any portion of the State. We ought to pause and look at the consequenses of a different policy. We ought not to hold this subject up perpetually for every Legislature to meddle with, and to see how much they can make out of it. It ought not to be held out as a temptation. We ought to put it in such a shape that it will be permanent, and give us at least one institution in the State which shall be of a high order and character, and afford every facility to students to get an education as thorough as they could get in any institution in the United States. The proceeds of the fund will be none too large to furnish that institution with the necessary libraries, apparatus and professorships, and to aid such colleges as may be branches of it. We ought to look at these points carefully and give the institution such permanency as similar institutions have in other States.

Mr. BATES. Mr. CHAIRMAN: thus far in this discussion I have not participated, from the fact, that I represent, in part, the district in which the University is located, and that it might be thought, perhaps, I might be influenced by local prejudice. But this is a question, sir, which should rise above all local prejudice. Whatever views may be entertained by others, I consider it no great matter whether the University were located at Hastings, Rochester, Winona, or any other part of the Territory; but it is of the first importance to my mind, that wherever the location is, it should be permanent. The people should feel that it is a permanent thing, and not subject to be removed at any time. And, in the second place, it is necessary that it should have a large and permanent fund. One gentleman, estimating this University fund at $450,000, considered that it ought to be distributed in various parts of the State. But $450,000 is not a large fund for a University. It is a small fund compared with that of similar institutions in the old world; and there are colleges in our land with endowments of double that amount. Perhaps the gentleman would have a system of education here something like that in the State of Ohio, where there are twenty-three separate institutions of learning, and yet hardly one of them really worthy of the name of a college; whereas, if that people had united their ample fund, and put it all into one University, they would have built up an institution of the highest utility, and worthy of that great State. As it is, their young men do not, as a general thing attend their own schools, which are almost all laboring under the depressions of debt. This is an example we should by all means avoid. But, if we adopt the amendment, I cannot but fear, that, instead of having one State University, every way creditable and prosperous, and permanent, with all its professorships regularly endowed, we shall have a little college located here and there, of little advantage to the people, and in no way calculated to give dignity and character to the literary institutions of our country.

Mr. WILSON. Mr. CHAIRMAN: I would like to ask two or three questions of some gentleman knowing the facts. I would like to know what improvements have been made on those University lands, and of what order? What preparations there are for further improvements? and how much they will be worth when done?

Mr. SECOMBE. Mr. CHAIRMAN: I will state as far as I know: though the facts are doubtless more completely within the knowledge of the gentleman from Winona, (Mr. BALCOMBE) who, gentlemen say, has been making buncombe speeches on this subject.

In the first place, immediately after the incorporation of this University—there being then no funds, no lands, and no income of any kind; and it being provided in the act of incorporation that a preparatory department might be instituted immediately, certain citizens of the Territory—not particularly those

of St. Anthony, because St. Anthony has never claimed the privilege of doing everything for this University—certain citizens of the Territory contributed some three or four thousand dollars—the gentleman from Steele county will accept of this.

Mr. COGGSWELL. Yes, sir; raised by the citizens of the Territory.

Mr. SECOMBE. These citizens of the Territory raised some three or four thousand dollars, and therewith the Regents erected a wooden building upon a lot in St. Anthony, which was occupied for their school purposes some three or four years. This being in the centre of the city of St. Anthony, and there not being sufficient room for the University, the building was disposed of by the Regents, and another location was made about half a mile from that, where twenty-seven acres of ground were purchased at an expense of about $5,000. The $3,000 realized from the sale of the old building, were put in for the purchase.

Mr. WILSON. How did they pay the other two thousand dollars?

Mr. SECOMBE. The other two thousand dollars were paid in the manner I am about to state. Some two years ago, the Legislature authorized the Regents to raise money by bond and mortgage—to what amount I am not able to tell exactly—for the purpose of going on to erect University buildings in accordance with the original act of incorporation, by which it was provided that the Regents might erect buildings for University purposes. That sum of money, whatever it was, has been, and is now being applied to the erection, upon this new site, of a stone building, which is intended as one wing of the University—a draught of which has been in existence some three or four years, and may be seen in the office of the Secretary of the Territory. It is open to the inspection of all. But what precise sum of money has been expended, or is to be expended, on this building, I am not able to inform the gentleman. I know, however, that that University ground, that was purchased at about $5,000, is worth not less than forty thousand dollars at the present time.

Mr. MURPHY. Mr. CHAIRMAN: Three thousand dollars of that sum was raised by the sale of the property contributed by friends of the institution, and the remaining two thousand from the proceeds of bond and mortgage on the pine lands of the University.

Mr. WILSON. Mr. CHAIRMAN: I would like to know to what amount these lands have been mortgaged, if any gentleman can tell me. Even echo does not answer, Mr. CHAIRMAN. As far as I can see into this matter, the further you go, the worse it looks. Sir, there is not a town of any importance in the Territory, that would not to-day raise fifty thousand dollars for the location in it of the State University. This is no black-mail, Mr. CHAIRMAN; it is something fairly owing to the school fund of the Territory.

Here, sir, are seventy-two sections of land, making forty-six thousand and eighty acres. This land, at ten dollars an acre, is worth four hundred and sixty thousand and eight hundred dollars. See what would be the interest on that in the run of ten years; and then, double that for the expenditures of the students. The interest on nine hundred and twenty-one thousand six hundred dollars at ten per cent. would give an annual revenue of ninety-two thousand one hundred and sixty dollars. This sum will be expended annually wherever the University is located. Such would be the advantage to the parties who should have it. Everybody that knows anything about colleges, know that the students generally expend, every year, about twice the sum required for the annual support of all the other expenses of the college. I I tell you, sir, they ought to give us a bonus. Wherever the University goes, they ought to pay largely. It is due to the school fund; it is due to the common interest. There are other localities just as eligible in every way, as that at Saint Anthony; and if I were in the Legislature—and the developments of circumstances might still further modify our legislative action, though this is not the place to make these changes—but if I were in the Legislature, to any place that would put up their buildings, I would give a share of the benefit of this fund. I could name ten or fifteen towns that would give fifty thousand dollars for that location; and it would be the best thing they ever did.

This thing of special legislation in our Constitution, for the benefit of any particular people, is wrong. There is no necessity for it.

We do not come here with information of these matters. No man here knows enough about such questions to vote intelligently. We do not know what to do with them. The men who think we are in favor of squandering this fund, and scattering it abroad over the Territory, are altogether mistaken. We are every one in favor of preserving it, and taking care of it. I stop short of no man in my desire for this to become a "number one" institution.

Mr. MORGAN. Mr. CHAIRMAN: In the last report of the Regents of the University it is stated, that about twenty-five thousand acres of the University lands had been located, and that the larger portion had been located in the pine region. Everybody at all acquainted with pine lands, knows their price to range from three to five dollars an acre. What is the character of the lands located in other parts of the Territory I do not know. Some of them may be very good lands. I understand the selections have been made with care, and they may be worth ten dollars an acre; but the probability is their value would not average above five dollars an acre. As for that portion of the land not yet located, of course they will have to take their chance. The location cannot be made before the surveys, and then the Regents will have to take their chance with others.

Mr. COGGSWELL. Mr. CHAIRMAN: I cannot forbear making a remark or two more, in reply to what has just fallen from the lips of the gentleman from St. Anthony. He says a certain amount—perhaps about one-half of the University lands have been selected; that a considerable portion of these selections are pine lands, not worth more than five dollars an acre.

Now I wish to be distinctly understood when I say that these individuals who have had this fund in their eye, in their eagerness to get control of it, have overstepped all law, and all authority. They had no right or authority to interfere with this land in any way, shape, or manner. In the first place, Mr. CHAIRMAN, they had no right to select it. In the next place, they had no right to mortgage it. In the next place, they had no right to encumber it in any way, shape or manner. Now, sir, by the terms of the Enabling Act, we do not get possession of this University fund, any more than we get possession of the school fund, until we accept of the provisions of the Enabling Act, and become a State. It never was the intention of Congress to give up their right and authority over these lands, until we should become a State.

Mr. BALCOMBE. Mr. CHAIRMAN: The lands which were granted by Congress, never have been mortgaged; there never has been any attempt made to mortgage these lands. That mortgage by which the regents have raised money, is upon those twenty-two acres of the site which they procured by other means outside of the grant of land by Congress, and which lies in the city of Saint Anthony, and upon which, also, this money has been expended.

Mr. COGGSWELL. I beg pardon, Mr. CHAIRMAN, if I have stated anything incorrectly. I understood the gentleman from Saint Anthony to state, that a certain amount of money was raised upon bond and mortgage, and I took it that it was upon these University lands. Now, Mr. CHAIRMAN, I ask that gentleman whether any attempt has been made to encumber those lands?

Mr. SECOMBE. Mr. CHAIRMAN: The gentleman from Steele county will recollect that I stated, that money had been raised upon bond and mortgage, but that how, or in what manner, I knew not. It has been first brought to my notice here. I know nothing further about the mannner in which the money was procured, except that it was authorized by an act of the Legislature.

Mr. COGGSWELL. At what session was the act passed.

Mr. SECOMBE. A year ago last winter.

Mr. COGGSWELL. Then, Mr. CHAIRMAN, we will have it understood, that these lands are not, and are not to be, encumbered by mortgage. But now this does not support the right of the Regents to go on and select the lands. I do not undertake to say what the language of the act of Congress is, but I do say, the Regents went on without authority.

Mr. SECOMBE. Mr. CHAIRMAN: the lands which have been selected, were selected under the act of Congress, setting apart and reserving seventy-two sections for the purpose of the endowment of the University of the Territory of Minnesota. They have been select-

ed under the direction of the Secretary of the Interior. By his authority, the Regents have made these selections, and sent on their report; and they have been approved by the Commissioner, and marked upon the maps in the General Land Office.

Mr. COGGSWELL. If that be true, Mr. CHAIRMAN, then the Congress were fools when they passed that act. [Laughter]. I will read, sir, from the second clause of the fifth section of the Enabling Act.

"*Second.* That seventy-two sections of land shall be set apart and reserved for the use and support of a State University."

Not, "have been selected and set apart," nor "to be selected by the Regents," but—"to be selected by the Governor of said State"—the name of an office that had not yet been created!—

—"To be selected by the Governor of said State, subject to the approval of the Commissioner of the General Land Office, and to be appropriated and applied in such manner as the Legislature of said State may prescribe for the purpose aforesaid, but for no other purpose."

Now, Mr. CHAIRMAN, I say this Convention have no authority to make any appropriation of these lands, nor to make any location of the University, because by these terms of the Enabling Act, the whole thing is placed in the hands of the Legislature of the proposed State of Minnesota. Mr. CHAIRMAN, it may be that these proceedings of the Regents are warrantable and proper; but I say, if they are, then the Congress of the United States were fools on the 3d of March, 1857.

Mr. NORTH. Mr. CHAIRMAN: If I have to correct my friend from Steele county, he will bear with me. He seems to be driving at something, he does not know what exactly. He seems at one time to know that the whole of these seventy-two sections were worth exactly $10 an acre. After a while he finds out, that not more than half the lands have been selected. Then again, falling back from the wall he had run against, he staves away at the idea that the lands have been mortgaged. When it turns out, that the lands have not been mortgaged at all—that it is all waste paper, or something else; then he declares roundly, that the Regents were exceeding their prerogative in selecting and locating the lands: and thereupon he finds that these lands are withdrawn from the market by the Secretary of the Interior, and the whole of this is done under his direction. And when he finds out that the whole has been done under the direction and by the authority of Congress, he suddenly exclaims that the Congress must have been a set of fools.

But, Mr. CHAIRMAN, if Congress have been fools, I hope we shall not make fools of ourselves in this matter.

This is a matter entrusted to the Territory: and the gentleman supposes that this Convention has nothing to do with it. Now, sir, I suppose that this Convention may guide and restrain the Legislature, and restrain and control its action in reference to this matter, as well as anything else. And I hope we shall have sufficient regard for the educational interest of the State, to do this thing like men, and not like boys.

In all this discussion, it would seem as though these grants of land were made for some pecuniary benefit or advantage which this Territory was to derive therefor. One gentleman would have certain towns give so much towards buildings. Now, I suppose, with deference, that it was not the object of these grants, that money should be made out of them for towns and town proprietors; but that education was the object: and that that should be the thing to which our minds should be directed when we are making laws in regard to them. The object is not to compel this or that town to raise all the money they can, but for the purpose of raising up an institution, on a good, substantial basis, that shall educate the people of this country.

Mr. LOWE. Mr. CHAIRMAN: This is a subject of some interest to me. Having spent some portion of my life in connection with such institutions, I have had occasion to notice some of the workings and wants of such an institution as this: and it seems to me, that the idea of gentlemen guarding well the integrity of this fund, is very reasonable and proper. I am opposed to specific legislation in the Constitution; and if this is a case of specific legislation, it is one of the cases of exception which I should be prepared to make. I believe the danger is great, especially in this new Territory, of frittering away the funds of this institution in such a manner as almost entirely to lose the benefit of it. We all know enough of the history of such cases;

and how the whole country is encumbered by insignificant colleges. It is certainly possible for us here, to provide well for one institution: and there is nothing we could accomplish that would be more honorable to ourselves.

Most of the objections to the report that have been stated here, appear to have but little relation to the case. They have relation to such questions as, whether St. Anthony has given as liberally toward the University as she might have done: or whether any other town might not have done more: whilst the main point is, how far we ought to provide for the permanancy and stability of the institution, and against all unnecessary and capricious modifications. If it were possible for the Convention to provide for an Agricultural College in connection with this institution, it might be more in accordance with the great interests of the State.

Mr. SECOMBE. By the act of incorporation, a department of Agriculture is provided for.

Mr. LOWE. Mr. CHAIRMAN: I did not intend to address the Convention at any length on the subject; but merely to say, that it is an object of interest to me, and if wisely treated here, will go far toward making a good reputation for this Convention. I hope it is not an exceptionable case of legislation. But, if it is, I am prepared to make the exception. I will go to almost any length to prevent the diversion of this fund to the purposes of other institutions, than the more important and useful one we might have, and which it was the object of the grant to confer upon us.

Mr. BILLINGS. A stranger in looking upon our discussions, would suppose that some of us were in favor of having a traveling locomotive University, upon wheels, to take it where we could get the largest crowd and the most money; that we were in favor of diverting the grant of Congress, and putting it up at auction that any and all places might bid for it. Now that is a subversion of the argument. The premises are assumed, but no one has made any such argument. We say this; the institution has been established in the Territory; we believe the fund is much larger than is required for any one institution. If that be the fact, then, we as a Convention ought not to say that the Legislature shall not, in their wisdom, establish other branches or other Universities of learning. Now is not this view of the subject right? and is not the proposition a correct one, which we make? Under the Organic Act the United States gives to the Territory of Minnesota two townships of land for the purpose of a University of Minnesota. There is one grant.

Mr. SECOMBE. The gentleman will allow me to correct him. Congress did not, in the Organic Act, give that. The Territory of Minnesota memorialized for a grant of land.

Mr. BILLINGS. It is the same thing; Congress gave the Territory two townships of land. These lands have been selected, and they are now the property of the University of Minnesota, while we are a Territory. There, now, is the University fund.

Under the Enabling Act, which has been referred to so often, Congress proposes to make a further donation to the State of Minnesota—not to the Territory—to be selected by the Governor of the State—not of the Territory—a thing which is to be done in the future; thus making two separate donations for two separate purposes—one under the act of Congress, the land of which is located and is the property of the University of the Territory; and the other, of seventy-two sections, is for a State University. Now the language of the report of this committee is intended to embrace both subjects. Not only do they embrace that which belongs to the University of Minnesota under a special law of Congress, dedicated to that purpose, and which has been set apart, and is now their property, but they seem to go further and embrace the other seventy-two sections, and appropriate the same to the use of the same University.

Mr. NORTH. The gentleman is entirely mistaken, for they mean the same thing precisely, and apply to the same land. The Enabling Act, if I understand it, provides for two school sections in each township, and the University lands too. This provides for the conveyance of the land to the State.

Mr. BILLINGS. The gentleman says that Congress means something which they certainly do not say. If the gentleman, by any course of reasoning, can convince the Convention that the two townships of land which

have been located and are the property of the University—a thing which is past—are the same in the eye of Congress as something which is to be in the future, and given to the State as a State, to be located by the Governor, as the officer of the State——

Mr. NORTH. The bill which granted the seventy-two sections, simply required the Secretary of the Interior to reserve that amount from sale. It did not give the title to the Territory or to the University, but simply reserved them from sale for that purpose, and there is no power here to hold it until we become a State.

Mr. BILLINGS. I have seen the bill. I do not profess to have a great deal of acuteness, but it occurs to me that nothing is plainer than that the two grants are not the same, because they are made by different acts and in different bodies of lands—the one is done and past, the other is to be done in the future.

Mr. SECOMBE. The argument of the gentleman from Fillmore will require a revision of the argument of the gentleman from Steele county, (Mr. COGGSWELL,) and he will have to double his figures. The same argument must necessarily apply to the first subdivision of section five of the Enabling Act, which provides for granting to the State for the use of schools sections sixteen and thirty-six of every township. Now under the act organizing this Territory, these same sections sixteen and thirty-six have been set apart and reserved for the use of schools in the Territory. And now here comes Congress again, according to the gentleman's argument, and sets apart those two same sections; and in case they have been granted and disposed of, then other two sections as nearly contiguous thereto, as may be, shall be set apart. Consequently, we get double grants of common school lands. Now the truth is, it is merely carrying out the intended grants which have been promised heretofore.

Mr. COGGSWELL. When was the first bill passed by Congress?

Mr. SECOMBE. In 1851.

The question was then taken on Mr. WILSON's amendment, and it was adopted.

Mr. PECKHAM moved to amend the same section by adding thereto the following:

"*Provided*, No religious sect shall ever have exclusive control of said University."

Mr. WILSON. I would inquire if the same provision was not incorporated in the article of incorporation? I do not want to have them have exclusive control, or any control.

Mr. PECKHAM. I suppose that under the act of incorporation, any rule of law in that act of incorporation can be amended or altered by the Legislature at any time. It strikes me that such a provision should be a fixed law, which the Legislature cannot tamper with, or alter or amend.

The amendment was agreed to.

"SEC. 6. The proceeds of all salt springs and lands adjoining or contiguous thereto, that have been or hereafter may be granted to the State for its use, shall be appropriated to the use of the State, to be used or disposed of on such terms, conditions and regulations as the Legislature of the State shall direct, and not otherwise.

Mr. FOSTER moved to amend by inserting after the words "appropriated to the use," the words "of the common schools."

Mr. SECOMBE. I hope that amendment will not prevail. We have one grant certain, if not two, for common schools, and there are other objects in the State which, it seems to me, should be provided for; and I suggest, if it be specifically appropriated to any use, it should for an insane hospital, rather than to common schools, which have already such a liberal fund. It was left by the committee in the manner in which it was found in the Enabling Act. It was thought best by them to let the Legislature have the disposal of it in such a manner as they thought best.

Mr. FOSTER. I hope the amendment will be adopted. I do not believe that our lunatics are going to be so large a number as to need the benefit of such a fund as this will be, and I believe furthermore that if the people be educated they will show less signs of insanity than some of them do now. (Laughter.) I think we cannot augment the common school fund too much nor guard it with too much care. If we are to became a great State we ought to take care that our intellectual advantage, are commensurate with the wants of a large population.

I hope this amendment will be adopted. It is not without a precedent in other States.

My impression is that Iowa and Michigan have adopted a similar provision.

Mr. COLBURN. I think it would be better to leave this matter where we find it in the Enabling Act, to the Legislature. It is very important that the State should establish some institution for the relief of the insane, the blind, &c. Now, as has been said, we have a very liberal provision for the support of common schools. When that matter was under discussion it was estimated by some gentlemen, whom I suppose competent to make a correct estimate, that the common school fund would be amply sufficient to support our common schools during the greater part of the year, in every district of the State. But we have no special provisions for the establishment of any charitable institutions, and if the Legislature should deem it best to take this grant for that purpose, I think they should have the privilege of doing so. If it shall be found that our school fund is going to be short, and the Legislature think it best for the interest of the whole people, to add this to the school fund, they will have the liberty to do so without any act upon our part.

Mr. KING. I am wholly at a loss to know what course members are going to pursue. We found a little while ago that a little more than half of the members of this Convention present were opposed to altering a single letter of the Enabling Act, stating as a reason for it that great inconvenience would arise from such a course, and now, some of those very members are in favor of altering a specific provision of the Enabling Act. That act has left this matter to the Legislature, and now gentlemen say that this Convention shall appropriate it, when Congress has said that the Legislature shall make the appropriation. Now if we can do one thing contrary to the Enabling Act, we can do two things, and we can change our boundaries just as well as we can dispose of these lands. If my friends can make my mind satisfied upon that subject, I will vote with them.

Mr. FOSTER. The matter of the boundaries of our future State is one thing, but the disposal of the lands granted to that State under the Enabling Act is quite another question. It is one which we are bound to take cognizance of; while the former is a question, which, it is doubtful whether we have any right to take cognisance of.

The amendment was not agreed to.

Mr. GALBRAITH. I had this morning prepared an amendment to section two, but I did not offer it as I desired more time to consider the subject. I would call the attention of the Convention to that section and then I will offer an amendment merely with a view of getting it into better shape than it now is. The section relates to escheats and I think the less escheats to the State we have the better. If I understand that matter, this section does not cover all the ground that I desire it should cover. It provides that "all lands the title "to which shall fail from a defect of heirs "shall revert or escheat to the State." Now I may be wrong, but I think that if a man should die leaving no heirs, this clause would require that his property should revert to the State, even though he had disposed of his property by will, for there is equally a defect of heirs. Suppose a man should make by will a donation of his property, he being heirless, to some eleemosynary institution, would not this clause cut it off?

I have not examined the constitutional provisions of other States in this respect. Some of the States I know, have no constitutional provisions in regard to this matter. The word "heirs" as it stands here has a fixed and definite meaning. They are that class of persons who receive property by descent from the original proprietors. Devisees may be no relation at all. This word "heirs" is limited in its meaning. It does not include all the kindred. I would have it that when a man dies the last of his race, and has no known kindred in the world, and he makes no will, that the State should be considered as his heir. But as long as his blood runs in human veins, so long should those having that blood be allowed to possess the property, and the Legislature should provide for them. I do not know exactly how to get at the idea which I have in view, but I have embodied it in this language.

"If any person, who at the time of his or her death, was seized or possessed of any real or personal property within this State, die intestate, without heirs or any known kindred, such estate or property shall escheat to the State, subject to all legal demands on the same."

I do not know whether we have made any

provision in the Constitution in reference to personal property. This clause will cover that, and it is well known that some of the wealthiest men in the country have no other property than personal property. Some of the largest estates in the country are in stocks and personality. The section as it stands in the report of the committee, does not apply to that kind of property; and I think it will be admitted, on all hands, that that should be included. I offer the provision which I have read as a substitute for the last clause of the section.

Mr. SECOMBE. I would ask the gentleman if, in the case he cites—that of an individual without heirs, disposing of his property by will—the title would fail? Would not the title rest in the devisee?

Mr. GALBRAITH. Most assuredly.

Mr. SECOMBE. Then it would not come within the meaning of the words "all lands the title to which shall fail."

Mr. GALBRAITH. But then the words "from a defect of heirs" follows, to qualify that. It is true the title would not fail; but why not say "from defect of devisees" as well as kindred? Would this clause now include kindred who are not heirs—distant relations?

Mr. SECOMBE. I would enquire if there are any kindred who are not heirs? And if heirs do not go both in direct and collateral lines?

Mr. GALBRAITH. At the common law that is the rule, but I think that in most of the States, a limit is put to heirship, and they define by legislative enactment what heirship is; and that property descends to a certain extent and no further—changing the rule of the common law. And the reason given for it is, that difficulties might arise if it were not restricted within reasonable limits. The old system, much abused in England, has been done away with in this country, and we have only statutory escheats. I would, before the State should step in and take the property of any individual dying in the State, have it ascertained, as nearly as possible, whether such person has any distant kindred; and I would go further, and have the Legislature pass a law that children by adoption, there being no children of the blood of the parents by adoption, should come in as heirs. To give the property to the State, to say the least of it, is not desirable.

Mr. FOSTER. The gentleman says that in this country statutory provisions are necessary in order that escheats should revert to the State.

Mr. GALBRAITH. That is a general principle.

Mr. FOSTER. Would not escheats, upon the principles of the common law, revert to the State, if there are no heirs? If so the whole thing would be under the control of the Legislature. I have been looking at this section, and it seems to me that if there is anything in it, which should be in the Constitution, it should be in the Bill of Rights. If we are going to alter the common law, it would be the most correct course to have it in that place. But it strikes me that the section is entirely unnecessary. Is not the right an inherent property of sovereignty, at any rate; and would it not exist even without any such provision as this in the Constitution? And at the common law, would not property to which there were no heirs, escheat to the State?

Mr. GALBRAITH. If there is to be any qualification, we should make it broad enough. But I would not object to striking out the whole section. The first section gives to the people the ultimate right to the soil, and, as has been remarked, the Legislature can make such laws in relation to escheats as it thinks proper. I heard a case stated the other day, where an adopted child had lived with its adopted parent all his life, and the parent had always said the child should have his property. The parent was accidentally killed, and left no will. The State is now trying to get that property and will get it. Now the Legislature should have jurisdiction over cases of that kind. The State does not need the property, and to take it would be an absolute wrong.

Mr. SECOMBE. Would not the State have the right to do justice and equity, and to give the property back to the person to whom it ought to go, under the power of the right of sovereignty?

Mr. GALBRAITH. I do not think it would, and the question is whether the courts would have the right to grant relief.

Mr. SECOMBE. I did not ask that, but

whether the State would not have the right to give it to whom it equitably belonged, though legally it belonged to the State?

Mr. GALBRAITH. I think it would, under the clause we have inserted.

Mr. SECOMBE. As it now stands?

Mr. GALBRAITH. I would rather have it modified so as to refer to property the title to which shall fail from any cause rather than simply from a defect of heirs. It certainly does not provide for devisees and distant relations.

Mr. MORGAN. I agree with the gentleman from Dakota (Mr. FOSTER). I do not see the use of this section at all. It makes no new rule and if it is stricken out the Legislature will have the power to change the rule of the common law if they think proper. It is unnecessary and improper to put into the Constitution a maxim of the common law, or a maxim of any other character.

Mr. SECOMBE. In regard to the first part of the section, there seems to be a propriety in having it remain here, even if the last clause be stricken out. We have declared in the Constitution, in another place, that the Legislature shall never interfere with the primary disposal of the soil, and it would do no harm to declare, at the same time that they have the ultimate property.

Mr. GALBRAITH. I prefer that the first clause of the section should remain as a declaration of the principle that the people have the ultimate right of sovereignty when the title fail entirely.

The amendment of Mr. GALBRAITH was then agreed to.

And then, on motion of Mr. CLEGHORN, the committee rose and reported to the Convention the report and amendments, with a recommendation that the amendments should be concurred in.

The question first recurring upon the amendment offered, in committee, by Mr. GALBRAITH to the second section—

Mr. SECOMBE called for a division of the question, so as to take a vote first upon the striking out, and then upon inserting.

The question was accordingly taken upon striking out all after the word "State," and it was agreed to.

Mr. COLBURN. I would say, before the vote is taken upon inserting the amendment proposed by the gentleman from Scott county, that if the Convention reject that amendment, the section will stand simply as the first clause reads:

"The people of the State, in their right of sovereignty, are declared to possess the ultimate property in and to all lands within the jurisdiction of the State."

Now I would prefer to have it so remain, and I believe the gentleman from Scott county himself said he would not object to it.

The question was taken upon inserting the amendment proposed by Mr. GALBRAITH, and it was not agreed to.

The question next recurred upon the recommendation of the committee to strike out all after the words, "appropriated to the use "and support of" in section four, and insert, "a University and for no other purpose, in "such manner as the Legislature of the State "shall prescribe."

Mr. SECOMBE moved a call of the Convention.

A call was ordered, and the roll being called the following members failed to answer to their names:

Messrs. ANDERSON, AYER, CEDERSTAM, DAVIS, and THOMPSON.

Mr. STANNARD. I understand that Mr. CEDERSTAM is absent by permission of the committee on Leave of Absence.

Mr. COLBURN. Messrs. CEDERSTAM, AYER, and THOMPSON, are absent from the city.

Mr. NORTH moved to dispense with all further proceedings under the call.

The motion was agreed to.

Mr. WILSON. There are some members in the city, who are not present, and I move to reconsider that last vote.

The PRESIDENT. The Chair would suggest that the gentleman can more easily accomplish his object by moving a call of the Convention.

Mr. WILSON. I make that motion.

A call was ordered, and the roll being called the following members failed to answer to their names:

Messrs. ANDERSON, AYER, CEDERSTAM, and THOMPSON.

Mr. FOSTER moved that all further proceedings under the call be dispensed with.

The motion was agreed to.

Mr. FOSTER. Is the question open for discussion yet?

The PRESIDENT. It is.

Mr. FOSTER. The Sergeant-at-Arms has gone after absent members, not knowing that further proceedings have been suspended, and I want to give him time to bring them in.

This is a question which has been troubling our Legislatures every session. Hardly a session has passed since the University was established, but what some question in regard to it has come up in the Legislature. The matter is doubtless an important one, and I think myself that it is very important that the fund should remain intact, and be one fund for one institution. That can hardly be disputed. If we distribute it broadcast over the land, it will never do good to anybody; and whether it is to do good any way, is to be determined in the future. I have not much faith in Universities any where. While I think this institution is located in a pretty central position, and am not disposed, while it is conducted properly and fairly, to remove it from its present position, I may at the same time be permitted to scold a little at the manner in which the fund has been managed heretofore. I agree with the gentleman from Winona (Mr. WILSON,) that an unnecessarily large building has been erected, and more money expended than is justifiable, in putting up a building, costing forty or fifty thousand dollars, which will not be demanded for years to come; and when it is demanded, will have become dilapidated in part, and not in as good order as it should be. Now I take it that the idea of cutting up the fund, and scattering it all over the State is not to be thought of. And as to a removal, although I disapprove of the extravagant expenditure of money heretofore made, I am opposed to it. It reminds me of a case which occurred during General Jackson's administration, in which a receiver of public money in Mississippi was a large defaulter, and application was made to the President to remove him. The General sought information and advice from the proper quarter, and he was advised to allow him to remain, on the ground that he was a pretty fair man—as fair as any that could be got; and if he was turned out and another put in his place, the other would have to be gorged too; and the result would be that the Treasury would be robbed twice. He was allowed to remain, and he became a very good officer, and made no further default.

So, in this case, if you remove the University to any other point, they will go to work and put up another large building to ornament their town, and expend as much, if not more money. Now we have a building already, and it would be decidedly bad policy to change the location. I think we ought to keep it where it is. Whatever mischief has been done is passed and irretrievable, and the only way now for us is, to go along and look out well for the future.

Now I am going for this section as originally reported by the committee, and against the amendment for the reason that the original clause refers to the act of the Legislature, and that act gives the Legislature complete control over any abuse of the fund, or the institution. It also provides that no religious tenets shall be required of either scholar or professor. Under that act, I hope it will be managed in the future in a manner acceptable to the whole State, and that no more money will be expended for the purpose of ornamenting the place.

Mr. McCLURE. I had intended unreservedly to vote for this amendment, until I heard the knock-down argument of the gentleman from Dakota, and I am going to say a few words now to see if I can get my mind settled to the same point again. I understand him to assert that the funds have not been used as they ought to have been, and he is decidedly opposed to a removal to another place from the fact that the same thing would be transacted over again by another set of men, and he thinks we bad better let the first thieves appropriate all to their own advantage. Now I declare to this Convention that that is an argument which I hardly know how to get over. Supposing that no man would make it who had not some experience in these things, I took it for granted that it must be so. But still, when I look at our action in accepting the Enabling Act, and at its terms, it seems to me that there is language in this section, as reported by the committee, which I cannot understand. We have accepted the seventy-two sections of land, and we have agreed that the Legislature of Minnesota shall dispose of that land, for the

purposes contemplated by the act granting them. Now the gentlemen who are opposed to this amendment do not ask that the Legislature shall be deprived of the privilege of legislating upon that subject, because they say that in the Territorial Act there is an express provision made, which allows them to do so. But gentlemen will remember that they ask us to do, what? not to legislate—for they say we have no power to do that—but they only ask us to say in the Constitution that the acts of the Territorial Legislature shall be confirmed and made binding upon the State. Now that is the whole sum and substance of the thing. We cannot legislate, but we can confirm an act of the Territorial Legislature. They ask us to make an act of the Territorial Legislature apply and have the same effect and force as an act of the State Legislature? That is exactly as I understand it.

Now so far as appropriating this fund to the erection of buildings is concerned, I have nothing to charge upon the people of St. Anthony. I suppose they are honest men up there, and, like a good many other people, they want to make the most of it; and I do not blame them for desiring that the institution shall be permanently located there. But I say they take such views here as they ought not to take when they ask us to give the same force and effect to an act of the Territorial Legislature, which an act of the State Legislature would have.

Now I hope it will be left with the State Legislature, and if gentlemen up at St. Anthony had sufficient influence previous to the location of the institution there, to do what they have done, I have no doubt they will have as much influence with future Legislatures. I am willing to leave the St. Anthony men to contend with such influences as may be brought to bear from other portions of the State, and I have no doubt they will be able to carry their points as they have heretofore. Therefore, I am decidedly in favor of the amendment proposed by the gentleman from Winona, and reported to us from the committee of the Whole.

Mr. BALCOMBE. I happen, at the present time, to be one of the Regents of the University, and it has been intimated here that the Regents had taken upon themselves the responsibility of expending rather too much money at St. Anthony. I feel called upon to make a short reply to that assertion, from the fact that the Regents of the University have done everything which they have done thus far, without encroaching in the least upon the original grant of Congress. They have not mortgaged the lands granted by Congress, and have given no liens upon them whatever. What has been done by the Regents, has been done by their own personal efforts in the way of obtaining private subscriptions, and in other ways managing to get into their hands some means and some property outside of the grant of Congress. They have obtained the possession of twenty-two acres of land in St. Anthony, which is worth forty or fifty thousand dollars

Mr. SECOMBE. Twenty-seven acres, worth not less than fifty thousand dollars.

Mr. BALCOMBE. Now the Regents have mortgaged that twenty-seven acres of land for some fifteen thousand dollars, and they have commenced the erection of a building, and they must raise upon that building and the land upon which it stands, a sufficient amount of money to complete what they have commenced, without asking any aid from the fund which comes from Congress. In view of that state of facts, I ask what have the Regents done more than they had a right to do, more than would be well for them to do, provided they could do it?

Again, this has not been done by St. Anthony, nor by any other town. It has been brought about and accomplished by men who look higher than town sites, I hope, or to the particular pecuniary interest of any town site. It has been done by such men as Henry M. Rice, Ex-Governor Ramsey, Nelson, Steele, Meeker, Atwater, and many others I might mention. It has been done by the Board as a unit, and by men who were looking to the proper education of the youth of Minnesota, and who desired an institution which should be a credit to the State. Now when the assertion is made by gentlemen, that the Regents have transcended their powers, and that they have done wrong, I must beg to differ with them entirely.

Mr. SECOMBE. I desire to say one word in addition to what the gentleman from Winona has said, in relation to the part which

St. Anthony has had in the disposal of the fund used at St. Anthony; and I will state that until this last session of the Legislature, there has never been a time when the wishes of St. Anthony have been respected in the election of the Regents of that University. All powerful, as St. Anthony has been represented to be, upon this floor, yet such has been the fact. They have had to contend against odds, and they have only been permitted to have what the people of other parts of the Territory have been pleased to give to them; and when it has been determined that there might be a Regent elected from St. Anthony, that Regent has not been the choice of St. Anthony itself, but such as the other parts of the Territory saw fit to give them. There has always been a struggle upon that point; and the most bitter struggle we have ever had, was that which took place last winter.

Mr. COLBURN. I move the previous question.

The previous question was seconded, and the main question ordered to be put.

Mr. WILSON called for the yeas and nays upon the amendment.

The yeas and nays were ordered, and the question being taken it was decided in the affirmative—yeas 31, nays 25, as follows:

Yeas.—Messrs. Anderson, Baldwin, Billings, Bolles, Butler, Cleghorn, Colburn, Coggswell, Coe, Davis, Duley, Gerrish, Harding, Hudson, Hanson, Holley, King, Kemp, Lyle, Mantor, McCann, McKune, McClure, Mills, Perkins, Peckham, Robbins, Stannard, Vaughn, Watson, and Wilson.—31.

Nays.—Messrs. Aldrich, Bates, Bartholomew, Coombs, Dickerson, Eschlie, Foster, Folsom, Galbraith, Hall, Hayden, Lowe, Messer, Morgan, Murphy, North, Phelps, Putnam, Russell, Secombe, Smith, Walker, Winell, Sheldon, and Mr. Preaident.—25.

So the amendment was agreed to.

And then, on motion of Mr. STANNARD, the Convention adjourned.

THIRTIETH DAY.

SATURDAY, August 15, 1858.

The Convention met at nine o'clock, A. M.

Prayer by the Chaplain, Rev. E. D. NEILL.

The journal of yesterday was read and approved.

COMPROMISE PROCEEDINGS.

The President laid before the Convention the following communication from the Secretary, and the same was ordered to be entered on the journal:

CONSTITUTIONAL CONVENTION,
ST. PAUL, August 13, 1857.

Hon. ST. A. D. BALCOMCE, *President of the Constitutional Convention*:

SIR:—In obedience to instructions contained in a resolution passed by this body on the eleventh instant, I gave into the hands of the Hon. H. H. SIBLEY a communication in writing, of which the enclosed are true copies.

Respectfully,
L. A. BABCOCK, Secretary.

CONSTITUTIONAL CONVENTION,
HALL, HOUSE OF REPRESENTATIVES,
ST. PAUL, August 11, 1857.

Hon. H. H. SIBLEY, *Presiding Officer of that portion of the Delegates to the Constitutional Convention assembled in the Council Chamber of the Capitol:*

SIR:—The Constitutional Convention assembled in the Hall of the House of Representatives, have this day passed the following resolution, viz:

Resolved, That the Secretary of this Convention is hereby directed to communicate to the presiding officer of that portion of the Delegates to the Constitutional Convention assembled in the Council Chamber of the Capitoi an attested copy of the Preamble and Resolutions in reference to a Committee of Conference, adopted on the tenth instant, and the official action of this Convention thereon.

I have, therefore, the honor to communicate the enclosed attested Preamble and Resolutions, as the same passed this body on the tenth instant.

Respectfully,
L. A. BABCOCK,
Secretary of the Convention.

PREAMBLE AND RESOLUTIONS.

WHEREAS, The persons who were elected by the people of this Territory to represent them in a Constitutional Convention, having met at this Capitol on the day appointed by law for such meeting, and having disagreed upon some questions which arose in the course of forming a temporary organization, separated and formed two distinct Conventions, in numbers nearly equal, and are now forming two separate and distinct Constitutions, to be presented to the people.

AND WHEREAS, Proceedings so extraordinary in their character will have a tendency to injure the reputation of our people—to lessen the confidence of other States in our integrity, stability and patriotism, and place us in a false position before the world, therefore,

Resolved, That a Committee of five be appointed by the President of this Convention to confer with a Committee of an equal number, if appointed, of the duly elected members of that portion of them who are acting separately from us; and that it shall be the duty of such Committee to consider and agree upon, if practicable, and report some plan by which the two bodies can unite upon a single Constitution to be submitted to the people.

CONSTITUTIONAL CONVENTION,
HALL, HOUSE OF REPRESENTATIVES,
ST. PAUL, August 10, 1858.

I hereby certify the foregoing to be a true copy

of a Preamble and Resolutions which unanimously passed this body on the tenth instant.

Attest: L. A. BABCOCK, Secretary.

Mr. MANTOR, from the committee on Engrossment, reported back as correctly enrolled, Reports numbers twenty and twenty-one, being the Report on the Militia, and the report on Taxation, Finance, and Public Debt.

FINAL ADJOURNMENT.

Mr. NORTH. I move to suspend the rules so far as to enable us to reconsider the vote by which the Convention resolved to adjourn this day.

The motion was agreed to, two-thirds voting in favor thereof.

Mr. NORTH. I now move to reconsider the vote by which the resolution to-day was adopted.

The motion to reconsider prevailed.

The question then recurring on the passage of the resolution as follows:

"*Resolved*, That this Convention adjourn without day on Saturday the fifteenth instant."

On motion of Mr. NORTH, the resolution was laid upon the table.

REPORT ON PUBLIC PROPERTY.

Mr. McKUNE. If it is in order now to move to reconsider the vote by which, last evening, the amendment offered by Mr. WILSON to the fourth section of the report on Public Property, was adopted, I desire to make that motion.

Mr. STANNARD. I move that there be a call of the Convention.

A call was ordered, and the roll being called, Messrs. AYER, CEDERSTAM, FOSTER, HOLLEY, KEMP, LYLE, MESSER and THOMPTON, failed to answer to their names.

The PRESIDENT announced that Messrs. CEDERSTAM, AYER and THOMPSON were excused from attendance.

Mr. McKUNE moved that all further proceedings under the call be dispensed with.

Mr. STANNARD demanded the yeas and nays.

The yeas and nays were ordered, and the roll being called, it was decided in the affirmative, yeas thirty-one, nays eighteen, as follows:

Yeas—Messrs. Aldrich, Anderson, Baldwin, Billings, Butler, Cleghorn, Colburn, Coggswell, Coe, Davis, Duley, Dickerson, Galbraith, Gerrish, Harding, Hudson, Hanson, Holley, King, Lowe, Mantor, McCann, McKune, McClure, Mills, North, Perkins, Peckham, Smith, Watson, and Wilson.

Nays—Messrs. Bates, Bartholomew, Coombs, Eschlie, Folsom, Hayden, Morgan, Murphy, Phelps, Putnam, Robbins, Russell, Stannard, Sheldon, Secombe, Vaughn, Walker, and President.

So all further proceedings under the call were dispensed with.

The question then recurred upon the reconsideration of the vote by which the amendment was concurred in.

Mr. STANNARD. This is a matter of very considerable importance, and I do feel that gentlemen should not act hastily, and put this matter in reference to the University beyond the chance of examination. If this body refuses to reconsider that vote, then, so far as the action of this Convention is concerned, it is fixed. Now for one I am not disposed to incorporate into this Constitution any legislation which is calculated to benefit this particular locality or that. But, sir, the benefit of a system of government for any subject, depends, in a great measure, upon its stability and continuance. I am not disposed to leave this University question so open—as is proposed by the amendment adopted yesterday—that every Legislature of the State of Minnesota may use it for such purposes as will advance their own interests, and in the end render useless the grant of the United States to this Territory, for the purposes for which it was intended.

Mr. WILSON. I rise to a point of order. I would like to hear my friend's argument upon this matter, but I think the question is not now before the Convention.

The PRESIDENT. The question is upon the motion to reconsider.

Mr. STANNARD. Mr. PRESIDENT: I am not disposed to violate any rule of the Convention, but I do want to urge upon the members of this Convention that they should not act too hastily upon this matter: that they should give it due reflection; and I ask the gentleman who made the motion to reconsider, to withdraw it, out of courtesy to this body, so that members may have time to reflect upon this matter. I am aware that it was local feeling which induced that amendment, and I am not prepared to say but what it is just; but I do not wish to record my vote upon it until I have had time to examine it further. I want to examine the Enabling Act, and I

want to get a copy of the original act of Congress which reserves seventy-two sections, and see whether it harmonizes with the Enabling Act. I do not want to act hastily, nor do I want the members of this Convention to act hastily upon a matter which many of them confess they do not understand. As a matter of courtesy, then, I ask the gentleman to withdraw his motion and let the matter remain as it is for the present.

Mr. SECOMBE. I hope the motion to reconsider will prevail, and that the vote will be reconsidered, and the amendment not agreed to. If it should be reconsidered, I propose to offer a substitute for the section. If that is not satisfactory I propose to offer another; and I propose to offer substitute after substitute, in various forms to see if this Convention will not, in some manner, dispose of the lands which were set apart by Congress for the benefit of that University. I hope the motion to reconsider will prevail, although I am perfectly well aware that the gentleman who made the motion, did not make it for the purpose of having it prevail, but for the purpose of clinching, as he supposes the effect will be, the amendment which was adopted yesterday. But the gentleman will fail in his purpose. The effect of his motion will only be to amend section four as it now stands in the report, in a certain manner; but after that, as I understand, a substitute as further amended will be in order to the whole section as amended.

The PRESIDENT. It is the opinion of the Chair that it will be in order to offer a substitute for the whole section as amended.

Mr. SECOMBE. That being so, I care not particularly whether gentlemen see fit to refuse to reconsider the vote which they took yesterday by which they—

Mr. WILSON. I rise to a point of order. Is not this a little like the Dred Scott decision—deciding something which is not before the Convention?

Mr. SECOMBE. If the gentleman will have a little regard for the rules of this Convention, he will keep his seat while gentlemen are speaking perfectly in order to the question. I am speaking to the motion of the gentleman from Waseca county, upon the motion to reconsider a certain vote; and I say I care not greatly whether it is reconsidered or not. I prefer rather that it should be, and I decidedly prefer that the section shall be left as it stood yesterday previous to the adoption of that amendment.

But I say, whether it is or not. I propose to offer a substitute, and if it does not meet the wishes of the Convention, I propose to ascertain if any substitute can be offered which will meet with their approval, and ascertain whether they are, or are not in favor of carrying out the contract which has been made by Congress.

I propose at this time, while I am upon this subject, to read the act of Congress of February 19th, 1851, upon this subject.

"SEC. 2. *And be it further Enacted*, That the Secretary of the Interior be and he hereby is authorized and directed to set apart and reserve from sale out of the public lands within the Territory of Minnesota to which the Indian title has been or may be extinguished, and not otherwise appropriated a quantity of land not exceeding two entire townships for the use and support of a Universrty in said Territory and for no other use and purpose whatever, to be located in legal subdivisions of not less than one entire section."

Mr. COGGSWELL. I ask the gentleman to read the first section.

Mr. SECOMBE. I propose to read such sections only as have any reference to the subject. The first section has no reference to the subject whatever.. It has reference to school lands in Oregon and Minnesota. Now it appears that in February, 1851, the Congress of the United States enacted that the Secretary of the Interior should set apart and reserve from sale, out of the public lands in this Territory not otherwise appropriated, for the use and support of a University in the Territory of Minnesota a quantity not exceeding two townships which shall be located by legal subdivision of not less than one section in a place. Now that is in fact a grant of land. The grant is not perfected, but that land, as was stated in this Convention yesterday, has been, under the direction of the Secretary of Interior, partly and actually located and approved by him, and set apart and reserved for, what?—for a University in the Territory.

Now, Mr. PRESIDENT, the Territory of Minnesota, by an act of its Territorial assembly, have incorporated the University of Minnesota, and they have given a pledge of their solemn enactment that this land which was granted by Congress to the Territory, should

be devoted exclusively to that University of Minnesota. And I ask of this Convention if they are willing to violate the solemn pledge of the Legislature of the Territory in a matter in which the Territory alone is interested —because the grant is for the support of a University in the Territory? I leave it for gentlemen to decide for themselves whether it is the intention of Congress, in the Enabling Act, to set apart and reserve any other two townships of land or whether it is merely the completion of the same grant. But this I do say, that Congress has granted and set apart two townships of land for the benefit of a University in the Territory. The Territory itself has appropriated that land to the use of a University which they have incorporated. And what I say is that this Convention should not break over and violate an act of the Legislature upon the subject. I will read for information the section I propose to offer as a substitute, if the vote is reconsidered.

Mr. COGGSWELL. I rise to a point of order. If I recollect right, this Convention adopted a rule that no member of this Convention should speak but once upon any proposition which may come before the Convention, and only a certain number of minutes. I recollect distinctly I opposed that rule.

The PRESIDENT. The gentleman has spoken fifteen minutes, and if the gentleman from Steele insists upon the point of order, the chair will have to enforce the rule.

Mr. COGGSWELL. I do.

Mr. WILSON. I understood the gentleman to allude to me as making the motion to reconsider. He does me honor overmuch in so doing. It is my friend (Mr. McKUNE) upon my right who deserves the honor of that, though I am with him heartily. Now as to this being a local matter as stated by my friend from Chisago (Mr. STANNARD), I deny that it is local, so far as the friends of this amendment are concerned; or if it be local, it is local with a large part of the Territory. True it is local, if taken in comparison with the United States, because it is a territorial matter. But if taken in connection with the Territory, I say it is not local. The local feeling is all upon the other side. Take the votes and see. Now when we have agreed and settled this matter, I do not want our friends who voted for this amendment, to have a tacit insult offered to them by saying they will change their votes to-day. Other gentlemen may change, but I do not think any friend of this amendment will. Here a gentleman gets up and gives notice that he will offer amendment after amendment and substitute after substitute. It is not the way to treat reasonable men, by threatening to drive them into a matter. Our friend from Chisago, (Mr. STANNARD) who spoke upon this subject this morning, voted the other way last night, and I supposed, then, he did so, that he might move to reconsider himself sometime; and now I have no doubt about it.

As to springing a trap upon this matter, I would ask who called the previous question the other day upon a certain motion? Who did it? The gentleman who does not want us to do so here—I believe it was.

Mr. STANNARD. What question was it on?

Mr. WILSON. The question of leaving to the people the question of boundary lines.

Mr. STANNARD. No sir, I did not call the previous question.

Mr. WILSON. Then if I am mistaken, it was one in that same crowd. It was one of the same sort. I may be mistaken as to the particular gentleman. Now sir, we discussed this question yesterday until there was no person last night seeking the floor upon it, and the only ground of keeping this matter before us any longer is to spend time, and tire gentlemen out, or scare them into forwarding the wishes of certain gentlemen here. That was the way gentleman were scared the other day I believe, but I do not believe they will be scared upon this subject.

Mr. NORTH. I have only a word to say upon this matter. I do protest against some of the remarks of the gentleman from Winona, with all due respect to that gentleman. I protest against the taunts and flings and sneers of that gentleman against those who happen to differ with him on questions before this Convention. It is not respectful to throw out flings and inunendoes that there was not good faith, nor honesty of purpose in the gentleman from Chisago moving to reconsider, and voting as he did upon another occasion. But the gentleman from Winona happens to be mistaken and he charges the gentleman from Chisago with a motion which I made

myself. When the gentleman from Chisago denied having made the motion, the gentleman acknowledged that he was mistaken, but said it was "one of that crowd" or "one of the same sort," as though there were a class of persons here acting in bad faith, and from insincere purposes. Now I protest against that style of remark. I see no reason for it. Gentlemen have a right to move to reconsider, and they are entitled to be treated with respect upon this side as well as upon the other.

A word in reference to his long train of remarks about keeping this question up, after it has once been settled. Is the gentleman's memory so short that he does not remember how many times that question of boundary was brought up, and pressed by that very gentleman himself after we all supposed it had been settled? Now if he could be indulged in all that, he should be the last man to complain he should not be satisfied with the manner in which we may settle this question. Now there are persons having very deep feelings in regard to this University question. It is a question of magnitude and importance. If they have feeling upon it, it is not at all strange or singular. If they want our action reconsidered it seems to me that it is their right to move to do so, and their right to have gentlemanly treatment from members differing with them.

Mr. WILSON. It has got to be a little too common recently—

Mr. SECOMBE. I call the gentleman to order. The gentleman has spoken once.

The PRESIDENT. The point of order is a good one, if the gentleman himself or any other member desires to speak.

Mr. COGGSWELL. I move the previous question.

Mr. WILSON. Will the gentleman give me permission to make an explanation? That remark about ungentlemanly conduct has been made several times.

Mr. COGGSWELL. Well, I withdraw my motion.

The PRESIDENT. If no other gentleman desires the floor, the gentleman from Winona will proceed.

Mr. WILSON. I remarked that the gentleman from Chisago, (Mr. STANNARD) voted last night on the side of the question to which he was opposed, for the purpose of moving a reconsideration. I do not suppose there is a gentleman in this Hall who will deny it or doubt it. As to its being unmanly to make any such remark, I see nothing exceptionable in it, and the accusation of the gentleman from Rice County (Mr. NORTH) is one which I think is not well founded. As to my accusing any person of making a motion which was made by that gentleman, I did not do so. The motion to which I referred was made by the gentleman from Hennepin County (Mr. ALDRICH).

The gentleman from Rice did not have anything whatever to do with it.

Mr. BATES. The charge of being influenced by sectional feelings, comes with a bad grace from the gentleman from Winona. When the question was introduced here by the gentleman from St. Anthony, (Mr. SECOMBE) a few days ago, that gentleman said that were that institution located at Winona, he would go for it, and now we are charged here with being influenced by sectional feelings.

Mr. WILSON. Who ever heard me say that?

Mr. BATES. There are gentlemen here who heard it.

Mr. WILSON. If I ever said it, I must have said it in sport. But I do not recollect of saying any such thing, and I do not believe I ever did.

Mr. STANNARD. I am responsible and hold myself responsible to my constituents for all the votes I cast. Gentlemen know very well what position I have held upon this matter. A few days ago when the gentleman from St. Anthony (Mr. SECOMBE,) offered an amendment relating to this subject, to another report which was then under consideration, I opposed it, raising the objection that that amendment was not carrying out the provisions of the act incorporating the University, and I thought it was improper for this Convention to take any other course than to carry out that act. Now here is a section in this bill, which the gentleman from Winona moves to strike out, which he knows accords very well with my feelings expressed at that time.

Mr. CLEGHORN. I move the previous question.

Mr. STANNARD. The yeas and nays have been ordered upon the motion to reconsider, and the President cannot entertain any

other motion after that, except it be for a call of the convention.

Mr. BATES. I move that there be a call of the Convention.

A call was ordered, and the roll being called, the following members failed to answer to their names:

Messrs. AYER, CEDERSTAM, FOSTER, GALBRAITH, HALL, LYLE, PERKINS and THOMPSON.

Mr. COGGSWELL moved that all further proceedings under the call be dispensed with.

Mr. STANNARD. On that motion I call for the yeas and nays.

The yeas and nays were ordered, and the question being taken, it was decided in the negative—yeas twenty-three, nays twenty-seven, as follows:

Yeas.—Messrs. Baldwin, Billings, Butler, Cleghorn, Colburn, Coggswell, Duley, Dickerson, Gerrish, Harding, Hudson, Hanson, Holley, King, McKune, Kemp, Mantor, McCann, McClure, Mills, Peckham, Robbins and Wilson.—23.

Nays.—Messrs. Aldrich, Anderson, Bates, Bartholomew, Bolles, Coombs, Eschlie, Folsom, Hall, Hayden, Lowe, Messer, Morgan, Murphy, North, Phelps, Putnam, Russell, Stannard, Sheldon, Secombe, Smith, Vaughn, Walker, Winell, Watson and Mr. President.—27.

The Sergeant-at-arms was directed to report the absentees in their seats.

Mr. WATSON moved to reconsider the vote by which the Convention refused to suspend all further proceedings under the call.

Mr. MORGAN called for the yeas and nays upon that motion.

The yeas and nays were ordered, and the question being taken, it was decided in the negative—yeas twenty-six, nays twenty-six, as follows:

Yeas.—Messrs. Anderson, Baldwin, Billings, Butler, Cleghorn, Colburn, Coggswell, Davis, Duley, Gerrish, Harding, Hudson, Hanson, Holley, King, Kemp, Lowe, Mantor, McCann, McClure, Mills, Peckham, Robbins, Stannard, Watson and Wilson.—26.

Nays.—Messrs. Aldrich, Bates, Bortholemew, Bolles, Coombs, Dickerson, Eschlie, Folsom, Galbraith, Hall, Hayden, McKune, Messer, Morgan, Murphy, North, Phelps, Putnam, Russell, Sheldon, Secombe, Smith, Vaughn, Walker, Winell and Mr. President.—26.

Mr. McKUNE. I move that the Convention adjourn without day.

Mr. STANNARD. I rise to a question of of order. No motion is in order now but a simple motion to adjourn.

The PRESIDENT. The point of order is a good one.

Mr. STANNARD moved (at 10 o'clock and 20 minutes) that the Convention adjourn.

Mr. STANNARD proceeded to make a remark upon the motion, but was loudly called to order by many members.

The PRESIDENT. A motion to adjourn is not debatable.

Mr. STANNARD. I only wished to say if the Convention refuses to adjourn on this motion, we may have to sit here all night.

The motion to adjourn was lost.

After an interval of half an hour.

The Sergeant-at-arms reported all the absentees who were in the city, in their seats, except Mr. LYLE, who was sick.

Mr. SECOMBE. I move that all further proceedings under the call be dispensed with.

Mr. COGGSWELL. I rise to a point of order. My idea is that a motion of that kind is not in order at this time.

The PRESIDENT. The Chair is of opinion that some other business having been transacted since that motion was made before, it is now in order. A motion to adjourn has been made and lost, and a report has been received from the Sergeant at-arms.

The motion was agreed to, and all further proceedings under the call were dispensed with.

The question recurring upon the motion to reconsider,

The question was put, and it was decided in the negative—yeas twenty-five, nays twenty-eight, as follows:

Yeas.—Messrs. Aldrich, Bates, Bartholemew, Coombs, Eschlie, Foster, Folsom, Galbraith, Hall, Hayden, Lowe, Messer, Morgan, Murphy, North, Putnam, Russell, Stannard, Sheldon, Secombe, Smith, Vaughn, Walker, Winell and Mr. President.—25.

Nays.—Messrs. Anderson, Baldwin, Billings, Bolles, Butler, Cleghorn, Colburn, Coggswell, Davis, Duley, Dickerson, Gerrish, Harding, Hudson, Hanson, Holley, King, Kemp, Mantor, McCann, McClure, Mills, Phelps, Perkins, Peckham, Robbins, Watson and Wilson.—28.

So the motion to reconsider was lost.

Mr. SECOMBE offered the following substitute for section four.

SEC. 4. The proceeds of all lands set apart and reserved by and under the act of Congress, approved February 19, 1851, for the use and support of the University in the Territory of Minnesota,

shall be a perpetual fund to be called "The University Fund," which shall be appropriated to the use and support of "The University of Minnesota;" and the location of the said University under existing laws is hereby confirmed."

Mr. ROBBINS. I move the previous question.

Mr. SECOMBE. I had the floor, and I claim that the previous question cannot be moved while I am upon the floor.

The PRESIDENT. It is the opinion of the Chair that after the gentleman made his motion for the adoption of the substitute, and it was seconded—that he did not again address the Chair to make any remarks, and hence that the motion for the previous question is in order.

Mr. SECOMBE. The only reason was that I was obliged to leave my seat to carry my substitute to the Secretary, yet I retained my position on the floor.

The PRESIDENT. The Chair, as a matter of course, was unable to know what were the gentleman's intentions. He offered a substitute. It was read and immediately thereafter the previous question was moved and seconded.

Mr. SECOMBE. I call for the yeas and nays upon the previous question.

The yeas and nays were ordered.

Mr. DAVIS moved a call of the Convention.

A call was refused.

The question was then taken, and it was decided in the negative—yeas twenty-four, nays twenty-nine, as follows:

Yeas.—Messrs. Baldwin, Billings, Bolles, Butler, Colburn, Coggswell, Coe, Davis, Duley, Dickerson, Gerrish, Harding, Hudson, Hanson, Holley, King, Kemp, Mantor, McClure, Mills, Peckham, Robbins, Watson, and Wilson.—24.

Nays.—Messrs. Aldrich, Anderson, Bates, Bartholomew, Cleghorn, Coombs, Eschlie, Foster, Folsom, Galbraith, Hall, Hayden, Lowe, McCann, Messer, Morgan, Murphy, North, Phelps, Perkins, Putnam, Russell, Stannard, Sheldon, Secombe, Smith, Walker, Winell, and the President.—29.

So the motion was refused.

Mr. SECOMBE. The substitute which I have offered for the section, as it now stands amended, provides for the land which has been set apart and reserved by the act of Congress passed in 1851, which is a quantity not exceeding two townships, which, by the provisions of that act, was to be set apart and reserved by the Secretary of the Interior for the use and support of a University in the Territory of Minnesota, and for no other use or purpose whatever. That land has been actually, partly located under the direction of the Secretary of the Interior, and is reserved and taken out of the lands which are subject to sale, and remains University lands. The Territorial Legislature of this Territory passed an act the same year, by which the proceeds of that land were ordered to be kept in a perpetual fund and appropriated to the use and support of the University of Minnesota, incorporated by an act passed that year. Under the provisions of that act, the Regents of the University of Minnesota have been recognized by the Secretary of the Interior and been authorised by him to select lands throughout the Territory under the provisions of the act of Congress; and the selections made by them have been passed by him. Under the provisions of these acts —the act of Congress, and the act of the Territorial Legislature of this Territory—this University has been in actual existence, and has been in operation for the last six years. By the terms of the act of the Legislature, the Territory of Minnesota, which was the recipient of that grant, pledged its solemn faith to the University of Minnesota that the proceeds of this land shall be a perpetual fund for its use. It has also located that institution at or near the Falls of St. Anthony; and under and by the provisions of these acts of Congress and of the Territorial Assembly of this Territory, there have been erected buildings, and, as I stated before, the University has been in regular process of advancement, and has been under the regulations which were imposed upon it by the Territory of Minnesota, according to the Territorial Act, which is subject, at any time to alteration, amendment, modification or repeal. Now what I ask of gentlemen of the Convention is, that they will regard the sacredness of compacts. I trust no gentleman who holds a seat in this Convention would wish to disregard that. I ask that it may be done at this time in order that the matter may be put upon a permanent basis, so that the Legislature of the State may not be called upon every session to make a further disposition of this matter.

Objections have been made by gentlemen upon this floor to the section as it now stands, and as it stood before it was amended by the motion of the gentleman from Winona, on the ground that it appropriated, not only all the lands that have been granted, but also all that should be granted hereafter or set apart and reserved, to the University of Minnesota. It has been contended by some gentlemen—with what degree of plausibility I leave to the Convention to determine—that Congress had provided for two grants, that the grant mentioned in the Enabling Act was a different one from the grant mentioned in the act of February, 1851, and, consequently, that there were four townships intended; that two were intended for the Territorial University, and two intended for the State University. If that be the case, Mr. PRESIDENT, the substitute which I propose does not affect the two which are mentioned as granted to the State University; and if gentlemen here, who have opposed this section as it was originally reported by the committee, upon the ground that the fund is going to be too large—taking the view of it taken by the gentleman from Fillmore county (Mr. BILLINGS,)—will look at this substitute, they will see that there are left, subject to the entire disposal of the Legislature, two entire townships of land to be appropriated to another University hereafter to be incorporated and located as the people of the State may desire.

I trust then that this matter will be considered calmly and without reference to any particular locality. It is true, inevitably true, that those members of this Convention who represent the immediate locality of the University of Minnesota feel perhaps a greater interest, may perhaps feel even a different interest, and naturally would feel a different interest, from those representing other localities. But I trust they will have the credit for feeling, at the same time, an interest which should be the common interest of every member of this Convention—that the University of Minnesota, as it exists under the acts I have mentioned, shall carry out the objects for which it was intended.

The propriety of dividing up that fund has been fully discussed here. It is well understood that the provisions of the act of the Territorial Legislature are, that the Regents, if they deem it expedient, may receive into connection with the University any College in the Territory, upon application to the Board of Trustees, and such Colleges shall be subject to the visitation of the Regents. The substitute proposed by me, does not propose to alter that in the least respect. Gentlemen have said upon the floor, that they did not wish to alter it. Gentlemen have denied any intention or desire either to divide up the fund otherwise than mentioned in the act of incorporation, or to remove its locality. I ask, then, gentlemen to give this matter a candid consideration, and let it be disconnected with—

Mr. WILSON. I rise to a point of order. The gentleman has spoken fifteen minutes.

Mr. SECOMBE. The gentleman is mistaken. I took pains to note the clock myself on this occasion, so that the question might not be sprung upon me. I trust no lines will be drawn here upon locality. I hope no gentleman will say here that because certain gentlemen have seen fit to vote upon other questions as they thought their duty impelled them to do, therefore they will vote against them upon this question. Let us look upon this in its true light, as members of the Convention representing the future State of Minnesota. If it is so looked upon, I believe some substitute will be adopted for the section as it now stands, which will permanently recognize the contract which has been made by the Territory of Minnesota in regard to the fund which was granted to the Territory of Minnesota.

Mr. CLEGHORN. I move that this report and pending amendments be laid upon the table until Monday next at half past two o'clock.

Mr. COLBURN. I should like to know the gentleman's reasons, for that motion. If there is any good reason I should not object to it, but I cannot see why we cannot consider it to-day as well as then.

Mr. CLEGHORN. There are many good reasons. It is apparent to every one that very great feeling exists upon this subject. Members want time to consider this question, to see if some measures cannot be adopted to meet the difficulties in the case.

Mr. MURPHY. I hope the motion will

prevail. There appears to be a great deal of feeling and excitement about this matter.

The motion was agreed to.

And then, on motion of Mr. MANTOR, (at eleven o'clock) the Convention took a recess until half past two o'clock.

AFTERNOON SESSION.

The Convention was called to order at half past two o'clock.

STATE SEAL AND COAT OF ARMS.

Mr. BATES. I would enquire what disposition was made of the report on the State Seal?

The PRESIDENT. It is lying upon the table.

Mr. HARDING. Has it been considered in committee of the Whole?

The PRESIDENT. It has, and the question on it, is upon ordering it to be engrossed for a third reading.

Mr. BATES. Has it been considered in Convention, and were any amendments made to it?

The PRESIDENT. There was one amendment proposed and adopted by the Convention.

Mr. BATES. I move that the report be taken from the table and be ordered to be engrossed for a third reading.

The motion was agreed to, and the report was ordered to be engrossed.

PREAMBLE AND BILL OF RIGHTS.

Mr. MANTOR. I move that report Number one, upon the Preamble and Bill of Rights, a printed engrossed copy of which lies upon our desks, be now taken up, and read a third time and put upon its passage.

The motion was agreed to.

The report on the Preamble and Bill of Rights was accordingly taken up, read a third time and passed.

BANKING CORPORATIONS, &C.

On motion of Mr. SECOMBE, engrossed report number five, on Banking and Corporations other than Municipal, was taken from the table, read a third time and passed.

And then, on motion of Mr. FOSTER, (at three o'clock) the Convention adjourned until Monday next.

THIRTY-FIRST DAY.

MONDAY, August 17th, 1857.

The Convention met at nine o'clock, A. M.

Prayer by the Chaplain, Rev. E. D. NEILL.

The Journal of Saturday was read and approved.

Mr. MANTOR, from the committee on Engrossment, reported back, as correctly engrossed, report number seventeen, on the State Seal and Coat of Arms.

SCHEDULE.

Mr. FOSTER, from the committee on the Schedule, made the following report:

"SECTION 1. That no inconvenience may arise by reason of a change from a territorial to a permanent State government, it is declared, that all rights, actions, judgments, claims and contracts, as well of individuals as of bodies corporate, shall continue as if no such change had taken place, and all process which may be issued under the authority of the Territory of Minnesota, previous to the organization of the State government, shall be as valid as if issued in the name of the State.

"SEC. 2. All laws now in force in the Territory of Minnesota, which are not repugnant to this Constitution, shall remain in force until they expire by their own limitation, or are altered or repealed by the Legislature.

"SEC. 3. All fines, penalties or forfeitures accruing to the Territory of Minnesota, shall enure to the use of the State.

"SEC. 4. All recognizances heretofore taken, or which may be taken before the change from a territorial to a permanent State government, shall remain valid, and shall pass to, and may be prosecuted in the name of the State; and all bonds executed to the Governor of the Territory, or to any other officer or court in his or their official capacity, shall pass to the Governor or other State authorities and their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly; and all the estate or property, real, personal or mixed, and all judgments, bonds, specialties, choses in action, and claims or debts of whatsoever description, of the Territory of Minnesota, shall enure to and vest in the State of Minnesota, and may be sued for and recovered in the same manner and to the same extent, by the State of Minnesota, as the same could have been by the Territory of Minnesota. All criminal prosecutions and penal actions which may have arisen, or which may arise before the change from a territorial to a State government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the State. All offences committed against the laws of the Territory of Minnesota, before the

change from a territorial to a State government, and which shall not be prosecuted before such change, may be prosecuted in the name and by the authority of the State of Minnesota, with like effect as though such change had not taken place; and all penalties incurred shall remain the same as if this Constitution had not been adopted. All actions at law, and suits in equity, which may be pending in any of the courts of the Territory of Minnesota, at the time of the change from a territorial to a State government, may be continued and transferred to any court of the State which shall have jurisdiction of the subject matter thereof.

"SEC. 5. All officers, civil and military, now holding their offices under the authority of the United States, or of the Territory of Minnesota, shall continue to hold and exercise their respective offices until superceded by the authority of the State.

"SEC. 6. The first session of the Legislature of the State of Minnesota shall commence on the second Tuesday of January, 1858, and shall be held at the Capital in the city of St. Paul, at which time and place the State Election Commissioner hereinafter provided for, shall attend with a list of the members elect in each house; and after reading said list to the members assembled, shall call them to order, and act as presiding officer, until a temporary organization shall be effected in each branch. The said State Election Commissioner shall likewise communicate to the Legislature, a list of all the State and Judicial officers elected, with an abstract of the votes cast for each, and on the day subsequent to the permanent organization of the Legislature, by the election of permanent officers thereof, the State and Judicial officers elect, shall appear in the Hall of the House of Representatives, and in presence of both branches of the Legislature in Convention assembled, shall be publicly sworn into office, and shall thereafter assume and perform all the duties of their several offices as enjoined upon them by the provisions of his Constitution.

"SEC. 7. All county, precinct and township officers, shall continue to hold their respective offices unless removed by the competent authority, until the Legislature shall provide by law for filling such offices respectively, in conformity with the provisions of this Constitution.

"SEC. 8. The President of this Convention shall immediately after its adjournment cause a fair copy of this Constitution, to be forwarded to the President of the United States, to be laid before the Congress of the United States at its next session.

"SEC. 9. This Constitution shall be submitted to the people for their ratification or rejection, at an election to be held on the second Tuesday of October next, in the duly established election precincts within the limits of the proposed State; and all persons who have resided in the proposed State three months, and are otherwise duly qualified to vote, as provided in the —— article of this Constitution, shall be entitled to vote for and against the adoption of this Donstitution, and for all officers first elected under it. And if the Constitution is ratified by the said electors, or a majority thereof, it shall become the Constitution of the State of Minnesota. On such ballots as are for the Constitution, shall be written or printed the word "Yes," and on such as are against the Constitution, the word "No." The election shall be conducted in all respects, and vacancies in the election of officers filled in the manner prescribed by law. But if, from any cause, in any precinct, at the time specified for opening the polls, the usual places of holding the elections cannot be used for that purpose, then the officers of the election shall adjourn to, and open the polls forthwith at the most convenient place nearest thereto; and on counting the votes cast at said election, the judges of the election shall make return thereof in legal form to the following named persons who are hereby appointed county election commissioners in and for the several counties and districts for which they are respectively named, to receive said returns, and to perform in regard thereto, all the duties which are now by law required to be performed by registers of deeds, as commission officers in the several counties, and in addition to the returns and abstracts prescribed by law to be made by the said register, the county election commissioners shall respectively make another abstract of all the votes cast in their respective districts, and forward the same to ST. A. D. BALCOMBE, President of this Convention at the city of St. Paul.

The county election commissioner for Houston county shall be James A. McCann.

For Mower county, Rufus L. Kimball.

For Olmsted county, Moses W. Fay.

For Freeborn county, W. Andrews.

For Faribault county, J. B. Wakefield.

For Blue Earth county, A. D. Seward.

For Wahashaw county, Abner Tibbets.

For Goodhue county, J. W. Hancock.

For Dakota county, John Kennedy.

For Scott county, Hamilton Clarke.

For Steele county, H. M. Sheetz.

For Rice county, Isaac Hammond.

For Winona county, C. F. Buck.

For Nicollet, Brown, Renville and Pierce counties, Henry A. Swift.

For Le Seur county, Jud Jones.

For Carver county, T. D. Smith.

For McLeod county, W. S. Chapman.

For Meeker county, Thomas H. Skinner.

For Sibley county, James C. Pratt.

For Dodge county, Isaac Turtlott.

For Waseca county, J. W. Crawford.

For Fillmore county, S. B. Murrell.

For Wright county, J. F. Bradley.

For Stearns, Todd and Pembina, C. T. Stearns.

For Anoka and Manomin, Jared Benson.

For Isanti county, Joseph H. Canny.
For Hennepin county, C. G. Ames.
For Sherburne county.
For Benton county.
For Morrison, Crow Wing and Cass counties, James Fergus.
For St. Louis, Lake and Itasca, E. F. Ely.
For Chisago county, Thomas Lacy.
For Pine county, J. G. Randall.
For Washington county, Thomas J. Yorks
For Ramsey county, G. W. Moore.

And the persons aforenamed are hereby declared to be the election commissioners, respectively, for the several counties and districts specified, and they shall continue in office and act as canvassing officers, in place of the register of deeds, at all elections under this Constitution, and until the final admission of the State of Minnesota into the Union of the United States, unless otherwise provided by law passed in pursuance of the provisions of this Constitution. The President of this Convention, ST. ANDREW D. BALCOMBE, is hereby appointed State Election Commissioner; and he shall perform the same duties in regard to all elections under this Constitution as are now required by law to be performed by the Secretary of the Territory; and if from any cause, he is unable to act, he may designate his own successor, and he shall have power to fill all vacancies in the county election commissioners, that may occur by death, resignation or otherwise, and may appoint others in place of those county commissioners, who may refuse or neglect to attend to the duties of their appointment. And in the event of the ratification of this Constitution by a majority of the people voting thereon, the State Election Commissioner shall make public proclamation of the same; whereupon, an election shall be held for Governor, Lieutenant Governor, Treasurer, Attorney General, Auditor, Superintendent of Public Instruction, Members of the State Legislature, and Members of Congress, and such other officers whose election is herein provided for, on the —— day of ——— and no further notice of such election shall be required.

"SEC. 10. Until there shall be a new apportionment by the Legislature, the Members of the Senate and House of Representatives shall be apportioned and elected in districts as follows:

In the first district, the county of Houston shall elect four representatives and one senator.

In the second district, the county of Fillmore shall elect four representatives and two senators.

In the third district, the county of Mower shall elect two representatives and one senator.

In the fourth district, the county of Blue Earth shall elect one representative, and the county of Farribault one representative, and together they shall elect one senator.

In the fifth district, the county of Winona shall elect four representatives, and the county of Wabashaw two representatives, and together they shall elect two senators.

In the sixth district, the county of Olmsted shall elect four representatives and one senator.

In the seventh district, the county of Dodge and the county of Steele shall together elect three representatives and one senator.

In the eighth district, the county of Waseca shall elect one representative, and the county of Freeborn shall elect one representative, and together they shall elect one senator.

In the ninth district, the county of Goodhue shall elect three representatives and one senator.

In the tenth district, the county of Dakota shall elect four representatives, and the county of Rice three representatives, and together they shall elect three senators.

In the eleventh district, the county of Scott shall elect two representatives and one senator.

In the twelfth district, the county of Carver shall elect one representative, and the county of McLeod one representative, and together they shall elect one senator.

In the thirteenth district, the county of Le Sueur shall elect one representative and the county of Nicollet one representative, and together they shall elect one senator.

In the fourteenth district, the county of Sibley shall elect one representative, and the counties of Brown, Renville and Pierce one representative, and together they shall elect one senator.

In the fifteenth district, the county of Hennepin shall elect six representatives and two senators.

In the sixteenth district, the counties of Wright and Meeker shall elect one representative, and the counties of Sherburne, Benton and Morrison one representative, and together they shall one senator.

In the seventeenth district, the counties of Stearns and Todd shall elect one representative, and the counties of Cass, Itasca, Pembina, St. Louis and Lake, one representative, and together they shall elect one senator.

In the eighteenth district, the counties of Chisago, Pine and Isanti, shall elect two representatives, and the counties of Anoka and Manomin one representative, and together they shall elect one senator.

In the nineteenth district, the county of Washington shall elect three representatives and one senator.

In the twentieth district, the county of Ramsey shall elect five representatives and two senators.

"SEC. 11. The several elections provided for by this article, shall be conducted according to the existing laws, except as is otherwise provided; and the returns of the election for all officers shall be made to the county election commissioners; and a full abstract of all the votes cast for each and every officer shall be made to the State election commissioner, who shall make public proclamation of the aggregate of the votes for each office, in

every district, and of the persons in each district who are elected to the several offices voted for.

"SEC. 12. Two members of Congress shall also be elected on———day of———; and until otherwise provided by law the counties of Houston, Winona, Wabashaw, Olmsted, Fillmore, Mower, Goodhue, Dodge, Freeborn, Faribault, Brown, Pierce, Renville, Nicollet, Blue Earth, Wsseca and Steele counties, shall constitute the first Congressional district, and elect one member of Congress; and the counties of Rice, Le Sueur, Sibley, Scott, Dakota, Ramsey, Hennepin, Carver, McLeod, Meeker, Wright, Washington, Chisago, Pine, Isanti, Anoka, Sherburne, Stearns, Benton, Morrison, Crow Wing, Itasca, Pembina, St. Louis and———shall constitute the second Congressional district, and elect one member of Congress.

"SEC. 13. The following shall be the apportionment and arrangement of the judicial districts of the State, until otherwise provided by law:

The counties of Ramsey, Dakota and Manomin shall constitute the first judicial circuit.

The counties of Washington, Chisago, Pine, Isanti, Benton, Stearns, Morrison, Todd, Pembina, Cass, Itasca, Lake and St. Louis shall constitute the second judicial circuit.

The counties of Hennepin, Carver, McLeod, Sibley, Meeker, Wright, Sherburne and Anoka shall constitnte the third judicial district.

The counties of Mower, Dodge, Blue Earth, Faribault, Freeborn, Steele, Wasecs, Brown, Renville and Pierce shall constitute the fifth judicial circuit.

The counties of Scott, Le Sueur, Rice, Goodhue, Wabashaw and Nicollet shall constitute the fourth judicial circuit.

The counties of Winons, Olmsted, Fillmore and Houston shall constitute the sixth judicial circuit.

"SEC. 14. Each judicial circuit shall elect one circuit judge; and the first and second circuits shall together compose the first Supreme Judicial district; the third and fourth judicial circuits shall together compose the second Supreme Judicial district, and the fifth and sixth judicial circuits shall together compose the third Supreme Judicial district; and in each Supreme Judicial district as aforesaid, one Judge of the Supreme Court shall be elected."

Mr. FOSTER. I move that so much of the rules as require that this report shall be printed before it is considered, be suspended, and that we now proceed to its consideration.

Mr. WILSON. I hope that course will not be adopted. It is an important report, and I should like to have it laid before each member, so they can examine it.

Mr. FOSTER. I have no desire to press my motion, if it is objected to. I supposed it would be agreed to without dissent. I withdraw the motion.

The report was then read a second time, and laid upon the table to be printed.

And then, on motion of Mr. HUDSON, the Convention took a recess until half past two o'clock.

AFTERNOON SESSION.

The Convention re-assembled at half past two o'clock.

The PRESIDENT announced that the special order for this hour, was the consideration of the report of the committee upon Public Property, the pending question being on the amendment offered by Mr. SECOMBE to the fourth section.

The amendment was read as follows—

"SEC. 4. The proceeds of all lands set apart and reserved by and under the act of Congress, approved February 19, 1851, for the use and support of the University in the Territory of Minnesota, shall be a perpetual fund to be called "The University Fund," which shall be appropriated to the use and support of "The University of Minnesota;" and the location of the said University under existing laws is hereby confirmed."

Mr. SECOMBE. I demand the yeas and nays upon that amendment. The yeas and nays were ordered.

Mr. KING. I move that there be a call of the Convention.

The motion was agreed to, and the roll being called the following members failed to answer to their names—

MESSRS. ALDRICH, AYER, BARTHOLEMEW, CEDERSTAM, DICKERSON, FOSTER, LOWE, MCKUNE, MESSER, PUTNAM, SMITH and THOMPSON.

Pending the call, it was stated that MESSRS. CEDERSTAM, MESSER, PECKHAM and DICKERSON were detained from the Convention by sickness, and that Mr. THOMPSON was out of the city.

Mr. HAYDEN moved that all further proceedings under the call be dispensed with.

The motion was agreed to.

The question was then taken hy ayes and nays on the amendment, and it was decided in the negative—yeas seventeen, nays twenty-nine, as follows:

Yeas—Messrs. Bates, Coombs, Eschlie, Folsom, Galhraith, Hall, Hayden, Morgan, Murphy, North, Phelps, Perkins, Russell, Secombe, Smith, Walker and Mr. President—17.

Nays—Messrs. Anderson, Baldwin, Billings, Bolles, Butler, Cleghorn, Colburn, Coggswell, Coe,

Davis, Duley, Gerrish, Harding, Hudson, Hanson, Holley, King, Kemp, Lyle, Mantor, McCann, McClure, Mills, Peckham, Robbins, Stannard, Vaughn, Watson and Wilson—29.

So the amendment was not agreeed to.

Mr. SECOMBE. I wish to offer another substitute. I will not detain the Convention by any remarks upon it.

The amendment was read as follows:

"SEC. 4. The proceeds of all lands granted or set apart and reserved by the United States for the use and support of a University, shall be a perpetual fund, to be called the "University Fund," which shall be appropriated to the use and support of the University of Minnesota."

Mr. WILSON. I move as an amendment to the substitute that the original section as it now stands amended, be stricken out. That will leave the whole matter where the Enabling Act leaves it. The Enabling Act is specific upon that point and we have accepted the Enabling Act.

Mr. SECOMBE. I rise to a point of order. The gentleman's motion is not in order. This is offered as a substitute for the section, and it seems to me that an amendment to that substitute to strike out the whole section would not be in order. However, I propose, if this substitute does not pass, to make that motion myself, but I prefer to have a vote taken upon the substitute first.

Mr. CLEGHORN. I do not think that the amendment offered by the gentleman from Hennepin (Mr. SECOMBE) is a substitute for the section, because it is only a part of the original section itself. It is word for word, like the first part of the section.

Mr. COGGSWELL. I would inquire what will be the effect of the motion of the gentleman from Winona, (Mr. WILSON)? It seems to me that we are mixing up matters rather too much.

The PRESIDENT. The Chair is of opinion that the motion of the gentleman from Winona is not strictly in order. After the question is put upon the substitute, that motion will be in order.

Mr. MORGAN. I rise to remark that I much prefer striking out the whole section to having it as it now stands, for the reason that it simply recognizes the fact that a University does exist in the Territory, and directs that the fund appropriated to the University by the United States shall be appropriated to that particular purpose. If this substitute fails, I shall vote for striking out the whole section.

Mr. BATES. I agree with my colleague who has just taken his seat. I prefer that the section should be stricken out, rather than remain as it is now. At the same time, I prefer that the substitute be adopted, and I cannot see any objection any gentleman can have to it. It does not locate the University. It leaves it simply as gentlemen have asked that it should be left.

Mr. WILSON. I do not wish to appeal from the decision of the Chair on my amendment or motion, but I certainly differ with him, and think my amendment must be in order. If to strike out is not an amendment, I do not know what an amendment is under parliamentary usage. I never before heard the point decided in that way. I certainly think the chair can call to mind many similar cases during the course of this Convention.

Mr. SECOMBE. The motion is not to strike out anything in the substitute.

Mr. WILSON. It certainly is an amendment, whether it makes the matter better or worse.

The PRESIDENT. The Chair is perfectly willing to record his decision upon the Journal, and the gentleman can take an appeal if he desires.

Mr. STANNARD. The motion of the getleman from Hennepin is to strike out and insert. I call for a division of the question, first upon striking out, and then upon inserting.

Mr. SECOMBE. That is not my motion.

The PRESIDENT. The motion is not to strike out and insert, but to substitute. There is a difference in the opinion of the Chair between the two motions.

Mr. STANNARD. How can a substitute be put in the place of that section without striking out?

Mr. ALDRICH. This is a substitute, and if adopted, it is true the other will have to be stricken out. But it certainly is not a motion to strike out and insert. If it is adopted it leaves the matter about as the gentleman from Winona desires to put it.

The PRESIDENT. The opinion of the Chair is that a motion to substitute is not divisible.

Mr. SECOMBE. Rule thirty-nine says: "A

"motion to strike out and insert shall be deemed "indivisible; but a motion to strike out being "lost, shall neither preclude amendment, nor "a motion to strike out and insert."

So that even if it were a motion to strike out and insert, it would be indivisible.

The PRESIDENT. The Chair has decided in accordance with the rule.

Mr. SECOMBE called for the yeas and nays upon the amendment.

The yeas and nays were ordered.

Mr. COGGSWELL moved a call of the Convention.

A call was ordered, and the roll being called the following members failed to answer to their names:

Messrs. BARTHOLOMEW, CEDERSTAM, DAVIS, DICKERSON, FOSTER, LOWE, MCKUNE, MESSER, MURPHY and PUTNAM.

The Sergeant-at-arms was directed to report the absentees in their seats.

Mr. MURPHY moved that all further proceedings under the call be dispensed with.

Mr. COGGSWELL moved to lay that motion upon the table.

Mr. STANNARD. The gentleman from Steele county is out of order in making that motion.

The motion made by Mr. MURPHY was agreed to, and all further proceedings under the call were dispensed with.

Mr. ROBBINS. Will remarks upon this amendment be in order?

The PRESIDENT. They will be.

Mr. STANNARD. I rise to a point of order. Debate is not in order after the yeas and nays have been ordered. The yeas and nays have been ordered upon this amendment.

The PRESIDENT. The Secretary informs the Chair that the yeas and nays have been ordered, such being the fact, debate is not in allowable except by general consent.

Mr. SECOMBE. I hope that consent will be given to discuss this substitute. I demanded the yeas and nays myself, and if it is in order, I would withdraw the call. (Cries of "No, No.")

The question was then taken and it was decided in the negative—yeas twenty-two, nays twenty-eight, as follows:

Yeas.—Messrs. Aldrich, Bates, Coombs, Eschlie, Foster, Folsom, Galbraith, Hall, Hayden, Morgan, Murphy, North, Phelps, Perkins, Russell, Sheldon, Secombe, Smith, Vaugn, Walker, Winell and Mr. President.—22.

Nays.—Messrs. Anderson, Baldwin, Billings, Bolles, Butler, Cleghorn, Colburn, Coggswell, Coe, Davis, Duley, Gerrish, Harding, Hudson, Hanson, Holley, King, Kemp, Lyle, Mantor, McCann, McClure, Mills, Peckham, Robbins, Stannard, Watson and Wilson.—28.

So the substitute was not adopted.

Mr. SECOMBE. I now move that section four be stricken out.

The motion was agreed to.

The report as amended was then ordered to be engrossed for a third reading.

Mr. HUDSON. There is in section one of this report, a—(cries of "order" "order.") I think there is a matter of importance in section one, which has been overlooked.

Mr. SECOMBE. I would inquire if the gentleman sees the University anywhere in it? (Laughter.)

Mr. HUDSON. I refer to no local matter. (Cries of "Order.")

Mr. NORTH. I hope we have courtesy enough to allow the gentleman to state what he desires. It may be a matter of importance to the Convention.

The PRESIDENT. A motion to that effect will be in order.

Mr. NORTH. I move that the gentleman have leave to speak.

The motion was agreed to.

Mr. HUDSON. Section one is as follows:

"The State shall have concurrent jurisdiction on the Mississippi, and all other rivers and waters bordering on this State, so far as the same shall form a common boundary to this State and any other State or States, now or hereafter to be formed or bounded by the same; and said river and waters leading into the same, shall be common highways, and forever free, as well to the inhabitants of this State, as to all other citizens of the United States, without any tax, duty, import or toll therefor."

A motion was made to insert the word "navigable" before the word "waters," where it occurs the second time. I was about to say in regard to that matter, that the word "river" was understood by the Convention to mean the Mississippi. Now I think we are not warranted in coming to that conclusion. According to the meaning of this section, we would not be able to make a dam across any stream leading into the St. Croix, or into the Mississippi, or even to

build a bridge over it. I do not believe that it is the intention of the Convention so to leave the matter. If gentlemen think it is all right, I am satisfied. (Cries of "Right!' Right!")

Mr. HARDING. I would like to know, whether, under this section, we could put bridges across the small streams that run through our farms? It seems to me that we cannot.

Mr. NORTH. I would inquire in what stage of its progress this bill is?

The PRESIDENT. It has been ordered to be engrossed for a third reading.

Mr. NORTH. This is a very important matter, and ought to be carefully considered.

Mr. McCLURE. It was discussed at the time it was under consideration, and it was found to be in the very words of the Enabling Act.

Mr. SECOMBE. I would state, as Chairman of the committee that made the report, that such is the fact. It is a transcript of a section of the Enabling Act upon the same subject. The matter was fully considered at the time the section was under consideration, and it was deemed by the Convention not within our province to alter the act of Congress upon this subject. Congress may have been fools in passing it, but it is not the business of this Convention to alter it.

Mr. NORTH. With the leave of the Convention, I will state why I deem this an important point. Certain individuals residing upon certain streams in this Territory, which are good streams for mill purposes, but not for navigation, have at times attempted by an act of the Legislature to declare those streams public highways, thereby preventing the erection of dams across them for mill purposes. By putting this into the Constitution we give such persons additional strength in making trouble where there should be none. It appears to be the same as the Enabling Act, still it appears to me better not to put it into the Constitution. For that reason, I would move to strike out all after the words, "bounded by the same." It will then simply recognize the power of the Legislature over these streams, without stating anything further. It certainly can do no harm to leave the latter part of the section out, and it may be of considerable benefit to the people of this Territory.

Mr. COGGSWELL. I believe a motion of that character would not be in order, inasmuch as we have ordered this report to be engrossed for a third reading.

Mr. NORTH. Then I move to reconsider the vote by which it was so ordered to be engrossed.

Mr. COGGSWELL. I hope the motion to reconsider will not prevail, for we have been very careful thus far not to violate any provision of the Enabling Act. We have been remarkably cautious, and as we have adopted the Enabling Act, and have been so careful not to violate its provisions, it seems to me that it is rather too late in the day to back out of that position, and undertake to contravene any provision of that act. If we have made fools of ourselves, and Congress made fools of themselves, I propose to stand it.

Mr. MORGAN. When this section was under discussion before the Convention, I made a motion to insert "navigable" before "waters." That was voted down, upon its being stated that this section was an exact transcript of the language of the Enabling Act. I think Congress made an omission in not inserting that word, and if it is a fact that Congress did make such an omission, I do not think that is a valid reason why we should make a like omission. It seems to me that the proper course for us would be to reconsider, and then make this alteration.

Mr. FOSTER. I hope this motion will be re-considered. As the section now stands, we are debarred from making any improvements, on every mill stream that leads into the St. Croix; and indeed, I do not know but the provision is retro-active, and we should have to remove such improvements as are already made.

In the Wisconsin Constitution they have a provision of a similar character, and in that the word "navigable" is inserted. It certainly can do no harm to strike out the latter part of the section. That would not interfere with the Enabling Act. It would only be silence upon the subject.

The motion to re-consider was carried.

Mr. MORGAN. I now move to insert the

word "navigable" before the word "waters," in the fifth line.

Mr. BILLINGS. I hope the gentleman will include in his motion the addition of the letter "s" to the word "river," in the same line. I think it is very clear that it is intended to be a repetition of the language of the second line.

Mr. SECOMBE. I think the amendment of the gentleman from Hennepin county may be adopted without involving us in any difficulty, though I think we would be justified in adopting the section as it stands. The remarks I made previously were more in justification of the committee, than anything else. Congress have said, however, that the Mississippi river and the waters leading into it, whether navigable or otherwise, shall be public highways. We need not necessarily say that. We may merely say that navigable waters shall be highways, and if Congress intended that all waters shall be, they will be, whether we say so or not. So it seems to me that it would not be a violation of the Enabling Act to say "navigable waters." We do not thereby exclude other waters from being highways.

In regard to the word "river," to which the gentleman from Fillmore (Mr. BILLINGS,) referred, I take it that it means the Mississippi river, and no other. "The said river;" the word "said" refers to some particular river which has been previously mentioned, and that particular river is the Mississippi river, and no other. There is a reason in that. Here are two provisions made; first, that the Mississippi river and all other rivers bordering upon the State shall be under the jurisdiction of this State, in concurrence with other States. The other is, that the provision of the ordinance of Congress, under which the Territory was originally established, shall be carried out; and that is, that the Mississippi river and the St. Lawrence, and other rivers running into the same, shall be public highways.

Mr. STANNARD. The orders of the General Land Office to the surveyors in the new Territories, have invariably been, to meander the navigable streams, and where they have not considered streams navigable, they have not been meandered. I am willing to leave it where the Enabling Act has left it. It is definite enough. I am disposed to prohibit the Legislature from giving exclusive rights to build dams across any streams which may be navigated unless they provide for getting around them. There are many streams leading into the St. Croix river, where dams have already been built, and individuals owning property above, have no means to get to it, except by following along the river. Now if dams have been built, and the navigation obstructed for a long time, I do not know how the individuals owning property still higher up, are to get their rights. I think we had better leave it where it is.

Mr. NORTH. I think the difficulty the gentleman suggests is usually provided for by a statutory provision, requiring those persons who build dams to provide a slide for the passage of logs and lumber down those streams. But there are other streams in the Territory where difficulty has been attempted to be made, and persons have even gone so far as to say that dams should not be erected, because those streams, as they assert, are highways. In reference to the Cannon river, which was never known to be navigable, a bill was got through the Legislature one winter declaring that to be a public highway, and it was claimed under that act, that no dam could be erected. A half a dozen dams or more, were already upon that stream. It was regarded by those who afterwards saw the bill, but did not detect the object of it at the time of its passage, as a mischievous bill, and designed to make difficulty. So far as we were concerned, our dams were built before the passage of the bill, and it would not have acted upon us, even if the Legislature had any authority in the case. But the bill was so badly framed, that it failed of its object, though the design was apparent.

Knowing the disposition of certain troublesome persons, as manifested in that case, I can easily conceive how others, through the Territory, might be subjected to the same difficulty, and how persons, having no other interest than to make trouble, could easily do so. Upon that account, it seems to me to be best to amend the section in the manner proposed. Then all will be perfectly safe and secure—the people of St. Croix as well as all others.

Mr. STANNARD called for the yeas and nays upon the amendment.

The yeas and nays were ordered, and the question being put, it was decided in the affirmative—yeas thirty-five, nays fifteen, as follows:

Yeas.—Messrs. Aldrich, Anderson, Baldwin, Bates, Billings, Butler, Cleghorn, Colburn, Coe, Coombs, Davis, Duley, Dickerson, Eschlie, Foster, Galbraith, Hayden, Harding, Hudson, Holley, Kemp, Lyle, McCann, Morgan, North, Phelps, Perkins, Russell, Sheldon, Secombe, Smith, Vaughn, Winell, Bolles, and Watsou.—35.

Nays.—Messrs. Coggswell, Folsom, Gerrish, Hall, Hanson, King, McKune, McClure, Mills, Peckham, Robbins, Stannard, Walker, Wilson, and the President.—15.

So the amendment was adopted.

Mr. FOLSOM. I desire to offer an amendment. The St. Croix river is considered navigable as far as the Falls. Then there are five or six mile of rapids, and above that are sixty or seventy miles of the river which is navigable, and upon which boats are now being built. I think it would be better to strike out the words, "said river and navigable wa- "ters leading into the same," and that would leave our navigation forever free. I think if members of the Convention would look upon this matter in its true light, they would let us have the rivers forming the boundaries of our State forever free. Companies are preparing to build boats, and if we put in the word "navigable," it will cut us off above the Falls.

Mr. NORTH. I would inquire if that is not the case now? I understand that the section now leaves the boundary rivers entirely free.

Mr. FOLSOM. I do not understand it so.

Mr. NORTH. "And said rivers and nav- "igable waters leading into the same shall be "forever free." I think that, without any alteration makes the boundaries free. An amendment was suggested to add the letter "s" to the word "river," and I suppose it was adopted by general consent, and hence I have quoted the language in that manner.

Mr. SECOMBE. I do not understand, as does the gentleman who has just taken his seat, that there is any connection between the first and second parts of the section. I understand that the word "river" does not refer to the "rivers and waters bordering on this State." There are two subjects embraced in this section. One is that the State shall have concurrent jurisdiction upon certain waters. What are they? The Mississippi river, wherever it forms the boundary, and any other rivers or waters that form boundary lines between this and other States. That subject is disposed of in the first part of the section. In the Enabling Act, there is a semi-colon after that provision. Then we come to another subject; we come to that provision of the Enabling Act, which is in accordance with the ordinance of 1787, making the Mississippi and St. Lawrence rivers, and all rivers running into them, public highways. It was a part of the original compact between the granting States and the United States, which it was the intention of Congress to provide for carrying out, in this section. Then the "said river" means some river that has been mentioned in the section—that is the Mississippi river.

Mr. NORTH. If it be in order, I move that the letter "s" be added to the word "river," and then it will cover the object sought by the gentleman from St. Croix.

Mr. KING. I do not know as I can throw any light upon this subject.

The Enabling Act reads as follows:

"That the State of Minnesota shall have concurrent jurisdiction on the Mississippi and all other rivers and waters bordering on the said State of Minnesota, so far as the same shall form a common boundary to said State, and any State or States now, or hereafter to be formed or bounded by the same; and said river and waters leading into the same, shall be common highways, and forever free, as well to the inhabitants of said State as to all other citizens of the United States, without any tax, duty, imposts, or toll therefor.

Now if we call the "said river" the Mississippi, what will we call the words "the same"? I think it is a mistake of the printer, and that it should be "the said rivers and waters" leading into the same Mississippi shall be common highways, and forever, free, &c.

Mr. SECOMBE. If in the fifth line, the word "river" is mistaken for "rivers," then it means all the rivers that are mentioned in second line, and that includes not only those which are navigable, but those which are not navigable. Now we cannot suppose that Congress meant to declare that all waters,

bordering upon the State, though navigable only by a canoe, should be common highways. Hence, if the word "river" in the fifth line, means the same waters mentioned in the second line, we must come to the conclusion that Congress made a mistake in the second line, and should have said "and all other navigable rivers and waters." The word "river," it seems to me, can mean no other than the Mississippi river, because if it means all the waters before mentioned, it necessarily includes all rivers, whether navigable or not.

Mr. STANNARD. I differ with the gentleman. I consider that the word "river" in the fifth line has reference not only to the Mississippi, but to all other rivers. I think so from this fact, that it could not have been the intention of Congress to exclude the Red River of the North, from being a common highway, so far as it forms a common boundary. The language must be applied to the Red River as well as to the Mississippi. By making the word plural, it would meet the intention of Congress, I think.

Mr. SECOMBE. I would ask the gentleman whether the words in the second line are limited to navigable rivers?

Mr. STANNARD. That is the position I took before the Convention a short time ago.

Mr. SECOMBE. Then I would inquire if the United States has refused to give us concurrent jurisdiction upon rivers not navigable, which form a boundary?

Mr. STANNARD. I do not doubt that the State would have concurrent jurisdiction, according to the first clause of the section; but by using the term "river" in the second clause, you would exclude the Red River from being a public highway so far as it formed a boundary.

Mr. PECKHAM. I think this matter is becoming more and more involved, and I move to amend by striking out all the section after the word "same" in the fifth line.

Mr. WILSON. I have in my hands the Statutes of Congress, including the Enabling Act, and I find that the language of the section as reported by the Committee, and the language of the Enabling Act as printed for our use, do not conform to the act as passed by Congress. It should read "and the said "river and waters, *and the navigable waters* "leading into the same, shall be common highways and forever free, &c." This solves the whole difficulty in which we have been involved. I move that the section as I have read it, and as it passed Congress, be substituted for the section as reported by the Committee, so that it shall read—

SEC. 4. The State shall have concurrent jurisdiction on the Mississippi, and all other rivers and waters bordering on this State, so far as the same shall form a common boundary to this State and any other State or States, now or hereafter to be formed or bounded by the same; and said river and waters, and the navigable waters leading into the same, shall be common highways, and forever free, as well to the inhabitants of this State as to all other citizens of the United States, without any tax, duty, imposts or toll therefor.

The substitute was adopted.

The report was then ordered to be engrossed for a third reading.

THE LEGISLATIVE DEPARTMENT.

Mr. MANTOR moved that report number eight, upon the Legislative Department be taken up, read a third time, and put upon its passage.

The motion was agreed to.

The report was accordingly taken up and read a third time.

Mr. SECOMBE. I ask unanimous consent to insert the word "what" before the word "courts" so that it shall read—

"The Legislature shall direct by law, in what manner, and in what courts, suits may be brought against the State.

The amendment was agreed to by unanimous consent.

Mr. SECOMBE. There is in section fourteen a provision which escaped my attention when the report was under consideration in the committee of the Whole, which, it seems to me is inequitable. It is this:

"Nor shall the compensation of any public officer be increased during his term of office."

It would prevent the salaries of Judges, who are elected for nine years, being increased at any time during that term.

Mr. STANNARD. We had considerable discussion upon that provision at the time the report was under consideration.

Mr. SECOMBE. I would enquire by what method a change of that provision can be reached at this stage of the report?

The PRESIDENT. It can be changed by the unanimous consent of the Convention.

Mr. SECOMBE. I ask the unanimous consent of the Convention to strike out the words "increased or."

Several members objected.

Mr. WILSON. I think the section is well enough, as far as it relates to those officers who hold only one or two years. But the Legislature will probably be inclined to give but small salaries, when our State Government first goes into operation, and in the case of officers holding office nine years, we shall find that this will work a hardship, and we shall find such officers resigning.

Mr. KING. If their salaries are too small, they can resign. The Legislature would then increase the salary, and good officers would then be re-elected.

Mr. MORGAN. I move to suspend the rule which requires unanimous consent to be given.

Mr. STANNARD. The rules cannot be suspended at this stage of the report.

Mr. NORTH. I should like to know the reason.

Mr. WILSON. I would like to know at what particular point the rules become so strong that they cannot be suspended.

The PRESIDENT. The Chair is of the opinion that the rules can be suspended by a two-thirds vote.

Mr. STANNARD. By what rule is that?

The PRESIDENT. By a rule of Jefferson's Manual.

Mr. STANNARD. I doubt whether there is any such rule of parliamentary law.

The PRESIDENT. There is no rule of the Convention in regard to the third reading of a report.

Mr. STANNARD. To suspend the rule now, would violate a universal rule established in all legislative bodies.

Mr. NORTH. It has been done in the Territorial Legislature.

The PRESIDENT. It is not within the recollection of the Chair, that the rules have ever been suspended on the third reading of a bill.

Mr. NORTH. That was before the Chair had any participation in the legislation of our Territory.

Mr. WILSON. Rule twenty-ninth says, that—

"No rule of the Convention shall be suspended, altered or amended, without the concurrence of two-thirds of the members present."

—And rule thirty-second provides that—

"The rules of parliamentary practice comprised in Jefferson's Manual shall govern the Convention in all cases to which they are applicable, and in which they are not inconsistent with the standing rules and orders of this Convention."

—Now by rule thirty-two, we adopt the rules of Jefferson's Manual as part of our rules in certain cases. Rule twenty-ninth says expressly that a two-thirds vote may suspend the rules, and if that rule does not apply in this case, we can suspend the rules by a mere majority vote according to the Manual. There is no rule of any parliamentary body which may not be suspended by a majority vote, unless there is a special rule of the body requiring a larger vote.

Mr. STANNARD. The universal rule of all legislative bodies is, that bills shall be subject to amendment upon their first and second reading; but that after they are ordered to a third reading, they shall not be amended, except by the unanimous consent of the body.

Mr. SECOMBE. If there is some rule which has been adopted and acted upon universally, which prevents an amendment on a third reading, the object of that motion is to dispense with that rule, and if there is any objection which can be made to making an amendment at this time, it is because it is in opposition to some rule, which we desire to suspend by this motion. It is a singular state of affairs, if this Convention is bound down in such a way that it would require unanimous consent for them, at this stage of proceeding, or any other stage of proceeding, to correct their errors and mistakes.

Mr. HARDING. I would inquire if there is any standing rule of this Convention which applies to this case?

The PRESIDENT. There is no special rule of the Convention which applies to the third reading of reports, but there is a rule which adopts Jefferson's Manual as a guide, where there are no special rules.

Mr. HARDING. Then it seems to me that there is no chance for us, by a two-third vote, or any other vote, to suspend that rule.

Mr. NORTH. For the life of me I cannot

see the nice point which is made in this case. After we have adopted Jefferson's Manual as a system of rules for the action of this body, I cannot see why they are not under the control of this body, just as much as the rules which we have adopted specifically. So far as our own action is concerned, the rules of Jefferson's Manual are just as much under our control as rules, as those rules we have specifically framed, for they are made a part of our rules. The twenty-ninth rule says no rule of this Convention shall be altered or suspended without the concurrence of two-thirds of the members present.

It does not say only the standing rules of this body shall be so altered or suspended. The thirty-second rule provides that all rules of Parlimentary practice comprised in Jefferson's Manual shall govern the Convention in all cases to which they are applicable, in which they are not inconsistent with the standing rules and orders of this Convention, without referring to those rules which are framed especially for the Convention. Now the twenty-ninth rule, which says that no rule of this Convention shall be suspended, &c., evidently would cover both the rules which are laid down in Jefferson's Manual and our standing rules. It seems to me as plain as can be, that all the rules come under the same control of this Convention, and one can be suspended as much as another.

Mr. CLEGHORN. On page sixty-one of Jefferson's Manual, I find the following:

"The Senate of the United States was so much in the habit of making material amendments at the third reading, that it has become a practice not to engross a bill until it has passed."

Showing that a bill can be amended upon its third reading.

Mr. STANNARD. But this report has been engrossed.

Mr. BILLINGS. I hope the vote will be taken upon the motion to suspend all rules. I have no doubt that we have the power to suspend any rule of this body at any time.

The PRESIDENT. The chair is still of opinion that the rule can be suspended by a two-thirds vote, though strongly impressed that it is not customary. It is something which the chair does not remember to have seen done during his legislative experience. It is the right of any gentleman to take an appeal from the decision of the chair.

Mr. STANNARD. I think anything is possible in this Convention; but, sir, for the credit of our journal I hope this will not be done. I would prefer almost any other course to be taken. If possible, I would reconsider the vote by which the report was ordered to be engrossed, or ordered to a third reading—anything which would come within the range of parliamentary practice, because I do not believe there is any precedent for the proposed course either in the journals of the Congress of the United States or of any other parliamentary body.

Mr. NORTH. I hope for the credit of this Convention, that we have no laws which, like the laws of the Medes and Persians, can never be revoked. I hope the motion will prevail, if for no other reason, to show that we have no rules but what we can revoke.

Mr. HAYDEN. I believe this is a universal rule for the purpose of cutting off amendments. There is a time when amendments should stop, and if there is no such time, we shall never know when we have finished our business. I know of no precedent for this kind of action. I agree with my friend from Chisago, that it would be better to reconsider our former votes and get back where we can make amendments in a parliamentary manner.

Mr. NORTH. But according to our rule, retracing our steps must be done within a certain time, and that time has expired. I do not see how we can get at the amendment of an error or oversight without suspending some rule.

Mr. HAYDEN. If a mere error has been committed, that can be remedied by unanimous consent; but this is in reference to an amendment upon which there is a difference of opinion.

Mr. NORTH. Suppose an error has been intentionally committed? There have been such cases.

Mr. GALBRAITH. I would simply remark that all these reports have yet to be referred to one committee—the committee upon Phraseology and Arrangement. And if that committee do their duty, they will recommend some material amendments.

Mr. STANNARD demanded the yeas and nays upon the motion to suspend the rules.

The yeas and nays were ordered, and the

question being taken, there were yeas sixteen, nays thirty-one, as follows:

Yeas—Messrs. Anderson, Baldwin, Colburn, Foster, Galbraith, Hudson, McCann, McClure, Morgan, North, Perkins, Russell, Secombe, Smith, Vaughn, Wilson—16.

Nays.—Messrs. Aldrich, Billings, Bolles, Butler, Cleghorn, Cogswell, Coe, Coombs, Davis, Duley, Dickerson, Eschlie, Folsom, Gerrish, Hall, Hayden, Harding, Hanson, Holly, King, Lyle, Mantor, McKune, Murphy, Phelps, Peckham, Robbins, Stannard, Winell, Watson and Mr. President—31.

So the rules were not suspended.

Mr. STANNARD. I now move that the report be recommitted to the Committee of the Whole, to take into consideration this fourteenth section.

Mr. ALDRICH. Cannot this be amended by unanimous consent, without going through all that formality.

Mr. GALBRAITH. I hope the gentleman who made objection will look at the inconsistency of leaving this section as it is. We have in another report a provision which conflicts directly with this, and one or the other must be wrong.

Mr. ALDRICH. I hope the gentleman will withdraw his objection.

Mr. HARDING. I was the one to make the first objection, I believe. At the time the term of office for judges was fixed, it will be recollected that I submitted an amendment to reduce the term of office, as I was opposed to any one holding office nine years. That is the reason why I made the objection. But I see another difficulty which I did not see at that time. I will, however, withdraw my objection.

Mr. COGSWELL. With what report does this section conflict?

Mr. GALBRAITH. With the report upon the Judiciary.

Mr. COGGSWELL. What does that say?

Mr. GALBRAITH. That their salaries shall not be diminished during their term of office.

Mr. COGGSWELL. They do not conflict then. This adds a further provision that they shall not be increased.

The question was then taken upon the motion to recommit the report to the Committee of the Whole, and it was carried.

On motion of Mr. ALDRICH, the Convention then resolved itself into committee of the Whole, Mr. STANNARD in the Chair, and took up the consideration of the report (number eight) from the committee on the Legislative Department.

Mr. SECOMBE. Mr. CHAIRMAN: I move that section fourteen of the Report be now considered by the committee.

The motion was agreed to.

The CHAIRMAN read the section as follows:

"SEC. 14. No member of the Legislature or other State officer shall be interested either directly or indirectly in any contract authorized by the Legislature during his term of office, nor shall the Legislature grant any extra compensation to any public officer, agent, servant or contractor after the services shall have been rendered or the contract entered into. Nor shall the compensation of any public officer be increased or diminished during his term of office."

Mr. SECOMBE. Mr. CHAIRMAN: I move to strike out from the seventh line of section fourteen, the words "increased or."

Mr. COLBURN. Mr. CHAIRMAN: I am opposed to this amendment. I am in favor of allowing the salaries of the Judges of the Supreme and Circuit Courts to be increased, if thought necessary for the reason that they hold for so long a term; but I am opposed to striking out these words, so as to allow and extend to all other officers of the State with them the same advantage—members of the Legislature and others who hold only two years. I should prefer to put in an exception, and allow the rule to remain—make the Judges an exception to the rule.

Mr. FOSTER. Mr. CHAIRMAN: I would suggest a difficulty. It is in cases where no compensation is provided for the officer.

What are you going to do in regard to those officers to be elected before the salaries can be fixed? According to this section, if they get nothing when they start off, they get nothing during their term.

Mr. FOLSOM. Mr. CHAIRMAN: I am opposed to the amendment for this reason—we have heard a great deal about the corruption of office-holders; and this proposition, it seems to me, is just letting down the bars of corruption to every office-holder in the State.

Mr. WILSON. Mr. CHAIRMAN: I like that last speech, and I think I shall now change my vote.

The amendment was rejected.

Mr. CLEGHORN. Mr. CHAIRMAN: I propose to amend the fourteenth section, by inserting after the word "officer," in the seventh line, these words: "except the Judges of the "Supreme and Circuit Courts."

The amendment was adopted.

Mr. PECKHAM. Mr. CHAIRMAN: I would like to hear the section read, as amended.

The CHAIRMAN, accordingly, read the section.

Mr. PECKHAM. It seems to me this amendment contradicts a section in the article on the Judiciary, which we have adopted, and which says, the Judges' salary shall not be diminished during his term of office.

Mr. HUDSON. Mr. CHAIRMAN: if in order, I would like to call the attention of the committee to section thirty-one, which reads as follows:

"SEC. 31. The Legislature may submit to the people any Act for their ratification or rejection, and such Act so submitted shall, if approved by a majority of the voters voting at the appointed election become a law."

It seems to me, Mr. CHAIRMAN, that, after the word "voting," here, we ought to have inserted the words "for or against such act."

Now sir, we might have some matter submitted which would not call out an expression from all the voters in the State, and so there might be a good law defeated; for this expressly says, it must be approved by a majority of the voters voting at the election. I think we ought to have the words "for or against such act" in here.

Mr. KING. Mr. CHAIRMAN: that same proposition has been offered heretofore, and voted down.

The CHAIRMAN. Does the gentleman insist on his motion?

Mr. HUDSON. I would make the motion, if in order, to insert the words "for or against said act" after the word "voting."

Mr. HAYDEN. Mr. CHAIRMAN: I rise to a question of order. Was not this bill referred to the committee of the Whole, for the express purpose of making the amendment to section fourteen? And is it in order to proceed to make other amendments? I read from Jefferson's Manual, page eighty-five.

"A bill on the third reading, is not to be committed for the matter or body thereof, but to receive some particular clause or proviso; it hath been sometimes suffered, but is a thing very unusual."

The CHAIRMAN. The Chair so understands it.

Mr. HARDING. Mr. CHAIRMAN: I move the committee rise.

Mr. BILLINGS. Mr. CHAIRMAN, I hope that motion will not prevail now. If we look again at section fourteen, I think we shall see it still requires amendment. I believe a little care—a little more thought on this subject, to be essential to our judicious action. I respectfully submit to the committee this language: "Nor shall the compensation of any "public officer be increased or diminished "during his term of office." Now, if you can neither increase nor diminish the salary, what can you do? Can you do anything? We are to start, sir, with a set of officers to be elected next fall, before the Legislature meets, having no fixed salaries. Now, if you can, tell me what is to be done in these cases?

A VOICE. Work for nothing.

Mr. BILLINGS. That is true. But do we intend to prescribe that? All the State officers are to be elected before the Legislature can meet to fix their salaries; and we here say, they shall neither be increased nor diminished. Now what will they do.

Mr. COLBURN. Mr. CHAIRMAN: It seems to me that the construction of my colleague is a forced one. It seems to me that establishing a salary is not increasing it, or diminishing it. These terms have no such close relation. The Legislature may establish the salary of an officer, but then afterwards, it shall neither increase nor diminish it.

Mr. SECOMBE. Mr. CHAIRMAN: I second the motion, that the committee rise, report, and recommend the adoption of the amendments.

Mr. NORTH. Mr. CHAIRMAN: will the gentleman withdraw that? I desire to move to amend the thirty-first section, by adding the word "thereon" after the word "voting," in the third line. It will make it better—much more definite.

The amendment was agreed to.

The motion, that the committee rise, was now renewed and agreed to; and, accordingly, the committee rose and the Chairman reported the amendments, with a recommendation that the Convention concur therein.

The amendments reported were both concurred in; and then—

On motion of Mr. ALDRICH, the rules were suspended so as to allow the report, as amended, to be considered on its third reading at this time; and being read the third time, by its title, it was passed.

SEAL AND COAT OF ARMS.

Mr. KING. Mr. PRESIDENT: I move to take up number seventeen—the report of the committee of the Seal and Coat of Arms—to be considered on its third reading.

The motion was agreed to, and the report was taken up and read through by the Secretary.

Mr. SECOMBE. Mr. PRESIDENT: I would inquire whether it is the intention, that this report shall be incorporated into the Constitution? If it is, it seems to me, that it is not in proper shape.

The PRESIDENT. It is the opinion of the Chair, that the report is not to be a part of the Constitution.

Mr. SECOMBE. I would inquire, then, how information is to be given to the world, that this is the State Seal?

Mr. NORTH. Mr. PRESIDENT: it seems to me this report will go upon the record as part of the proceedings of this Convention; and if we adopt this seal, it will become the seal of State. The report will not appear in the Constitution any more than such a report appears in the Constitution of any other State where they have a seal; but it will show in our proceedings what the seal is. If we adopt what this describes for the seal, this goes upon the record as descriptive of it.

Mr. BILLINGS. Mr. PRESIDENT: I hope this report is not to become a part of the Constitution; for although I signed it, it seems to me to require the correction of various errors. If there is no objection, I would like to have the words, "devolved upon," stricken out of the second line of the report, so that it would read: "Your committee would report, that they have taken "the subject into consideration, &c." It would be better language without these words. There is another discrepancy in the twenty-second line. The sentence is: "In "another, is a view of a river, (which may be "supposed to be the Minnesota,) running to "the westward, with a steamboat ascending the stream." Now, the Minnesota river runs eastward; and the steamboat represented as going up the river, according to this description, would be descending the river, for the Minnesota does not run westward. It has been also suggested to me by several gentlemen, (and I like the suggestion,) that, instead of a steamboat ascending the Minnesota, it would be much more natural and to the life, to have a canoe—on one side, an Indian with a canoe, and on the other, civilization and a sail. If this report is not to be subjected to the strict rules which govern reports on their third reading, I would like to have these amendments made.

Mr. BOLLES. Mr. CHAIRMAN: I would move, if this is to go upon the record, that the bill be recommitted to the Standing Committee, and that they be instructed to incorporate into the report a simple description of the seal, without going much into detail. It has before occurred to me, that this is not exactly such a thing as we would like to see upon our record. I think it would be much better, as a simple declaration of what the seal shall be, without the circumstances connected with it.

Mr. SECOMBE. Mr. PRESIDENT: I like the suggestion of the gentleman from Rice county, and was about to make the same motion—that this matter be recommitted to the Standing Committee, with instructions to draft an article to be inserted in the Constitution, prescribing what the seal shall be, so that the Constitution shall show what the seal is.

Mr. NORTH. Mr. PRESIDENT: there are many reasons why this report, descriptive of the design of the seal, should be preserved in its present, or in a corrected form. It should be preserved to illustrate and give meaning to the design. If there should be nothing but the engraving, without the particular description given, no person could form so perfect an idea of the design as might be obtained from the explanation. It is said of a certain artist, who, for fear his pictures might not be understood, would have them all labelled, as, "This is a Horse," "This is a Dog," or whatsoever the animal might be. I do not say that this would be necessary here; but I do think any person at all curious about the seal, could not get as correct an idea in any

other way as by a description in an intelligent report.

Mr. BOLLES. If all our reports go into the proceedings, of course this will have to go amongst them.

Mr. COLBURN. Mr. PRESIDENT: I like the motion, except the instructions. I hope the Convention will allow the report to go to the committee again without instructions. I find in most of the reports accompanying the seal to other State Constitutional Conventions, a rather broad sketch of their early history intended to be illustrated; and it seems to me that is proper. I am opposed to incorporating this report into the Constitution, as suggested by the gentleman from St. Anthony, (Mr. SECOMBE); but I think it should go upon the record. I think the report very proper as made. And I think, if the report were recommitted without instructions—the committee now understanding what the Convention desire to have represented—they would be able at once to make a satisfactory report. I think it would be much better to recommit without instructions.

Mr. BOLLES. I am willing so to modify my motion in that respect.

Mr. NORTH. Before the question is taken, I would suggest, inasmuch as there is a diversity of opinion in regard to the design and motto, and nobody feels perfectly satisfied with what we have got, whether it would not be well to leave the whole matter to the first Legislature to decide, instead of adopting this in a hasty manner? Perhaps in the intermediate time more designs and mottoes may be suggested, some of which would give more complete satisfaction.

Mr. BILLINGS. I should be very glad to have the labor, necessary to present this thing in a proper shape, devolve upon others, but I question much whether the legislative body will give it that necessary attention. I hope the report will be recommitted. There are other mistakes to which I have not called the attention of the Convention. I think if this matter should go upon the record as it now is, it would not be satisfactory, because no person by reading this report can tell what our motto, at least, is upon the seal. We suggested several and then struck out part. We also suggested a Latin phrase, and we have stricken that out.

Mr. WILSON. Though I really like this design, I hope the motion of my friend from Rice county will prevail.

Mr. NORTH. I made no motion; merely a suggestion.

Mr. WILSON. Well, I hope the suggestion will be incorporated into a motion, from the fact that between this time and the meeting of the Legislature, persons having any taste will be thinking of this thing. It is something any one would be proud to submit.

Mr. SECOMBE. Unless it be incorporated as an article of the Constitution, I do not see how any body is to be bound by it. It is suggested by gentlemen that it is unprecedented to incorporate into the Constitution an article descriptive of the seal: But if we merely adopt the report, who knows that it is the seal of the future State? If it is the wish of the Convention that it should be placed in an article, I think the subject had better be postponed.

Mr. COLBURN. Can the gentleman point to a Constitution which has a description of the seal in it?

Mr. SECOMBE. It is objected that there is no article; I then suggested, if there is not, it would not be binding upon the future State.

Mr. COLBURN. I believe that every State has a copy of the seal in their Constitution, as I said before, with a very short history of the Territory, giving an account by whom discovered, how populated, by whom, what nation, &c. It seems to me that by adopting the report of the Committee, we adopt their seal. I think a seal should go out with the Constitution. I have heard no particular fault found with that suggested by the committee. I like the suggestion of my colleague, a member of the committee, (Mr. BILLINGS,) to substitute a canoe in the place of the steamboat. I hope the motion to recommit will prevail.

Mr. STANNARD. I hope so. My colleague, (Mr. LOWE,) the Chairman of the Committee is not now present.

Mr. BILLINGS. The gentleman is mistaken in regard to his colleague being Chairman. During the time I was detained from the Convention by sickness, that gentleman made the report, signing himself as Chairman.

Mr. STANNARD. I know nothing about it except what appears in the report. I do know that he feels great interest in this matter, and would like to be heard.

The question was then taken, and the report was recommitted to the committee.

And then, on motion of Mr. KING (at five o'clock and thirty minutes,) the Convention adjourned.

THIRTY-SECOND DAY.

TUESDAY, August 18, 1857.

The Convention met at nine o'clock, A. M.

Prayer by the Chaplain, Rev. E. D. NEILL.

The journal of yesterday was read and approved.

REPORTS.

Mr. BILLINGS, from the committee on State Seal and Coat of Arms, made the following report, containing a brief and more correct description of the Seal and Coat of Arms, which they recommended for adoption, viz:

"The principal feature of the seal is a water-fall within a shield, (supposed to represent the Minnehaha Falls.) On one side of the shield is represented an Indian, with his tomahawk, bow and arrows at his feet. Opposite the Indian is the figure of a white man, with a sheaf of wheat and some of the implements of agriculture at his feet. The Indian is depicted with his face toward the setting sun, and as asking of the white man, by an imploring gesture, whither he shall go? To this the white man is responding, by pointing to the implements of agriculture before mentioned, as indicative that he must now assume the habits of civilized life. In one corner of the field occurs a distant view of Lake Superior, with a ship under sail. In another, is a view of a river (which may be supposed to be the Minnesota,) with a steamboat ascending its stream to the westward. In rear of the shield and waterfall, three pine trees are placed, representatives of the three great pine regions in Minnesota—that of the St. Croix, that of the Mississippi, and that of Lake Superior. Above these appears the North Star.

"For a motto, to accompany the words, 'State of Minnesota, A. D. 1857,' are these words: 'Liberty and Union.'"

The report was read and laid on the table.

Mr. MANTOR, from the Committee on engrossment, reported back as correctly enrolled, report number twenty-three, on Public Property.

SCHEDULE.

On motion of Mr. CLEGHORN, the Convention resolved itself into the committee of the Whole, (Mr. WATSON in the Chair,) upon report number twenty-four, from the committee on Schedule. [For report see proceedings of August seventeenth.]

The report was read by sections, for amendment.

"SEC. 6. The first session of the Legislature of the State of Minnesota shall commence on the second Tuesday of January, 1858, and shall be held at the Capitol in the city of St. Paul, at which time and place the State Election Commissioner hereinafter provided for, shall attend with a list of the members elect in each house; and after reading said list to the members assembled, shall call them to order, and act as presiding officer, until a temporary organization shall be effected in each branch. The said State Election Commissioner shall likewise communicate to the Legislature, a list of all the State and Judicial officers elected, with an abstract of the votes cast for each; and on the day subsequent to the permanent organization of the Legislature, by the election of permanent officers thereof, the State and Judicial officers elect, shall appear in the Hall of the House of Representatives, and in presence of both branches of the Legislature in Convention assembled, shall be publicly sworn into office, and shall thereafter assume and perform all the duties of their several offices as enjoined upon them by the provisions of this Constitution."

Mr. STANNARD. It seems to me that there should be some amendment made in regard to the swearing in of the State officers. The section, as it now stands, provides that the State and Judicial officers elect shall appear in the Hall of the House of Representatives, and in presence of both branches of the Legislature in Convention assembled, shall be publicly sworn into office. Now it may so happen, and it has so happened in one or two States, that one branch of the Legislature may be politically opposed to the other, and refuse to meet in joint convention at any time during the entire session. I will prepare an amendment to meet my views.

Mr. COGGSWELL. I move to amend the sixth section in the third line, by striking out the words "the Capitol in," so as merely to provide that the first Legislature shall be held in the city of St. Paul.

The amendment was not agreed to.

Mr. STANNARD. I now move to amend by inserting in line fourteen, between the words "presence" and "of," the words "or

the House of Representatives or." The amendment is offered not at all to exclude the idea that the officers should be qualified in the presence of both branches of the legislature, but to obviate the difficulty which might arise in case one branch being politically opposed to the incoming officers, should refuse to meet in joint convention. If the only way they could be qualified was in joint convention, one body might have it in their power to put off their being qualified for any length of time. In one State the election of an United States Senator was prevented for a great length of time, because one House, having a majority opposed to the real majority of both Houses in joint convention, refused to go into joint convention.

Mr. MORGAN. I think the amendment only meets a part of the difficulty, and that is where the Senate refuses to go into joint session. But in case the House of Representatives should refuse to admit those officers, then the amendment should provide that they may be qualified before the Senate. That would obviate the whole difficulty.

Mr. SECOMBE. Suppose they both refuse?

Mr. COGGSWELL. I move to amend the amendment by striking out all after the word "each" in the eleventh line. I think if the whole of this latter part of the section should be adopted, there would still another difficulty arise, which has not yet been mentioned. Suppose some of these State or Judicial officers should fail to appear before both or either branch of the Legislature at that particular time—being detained by sickness, accident or business; the question arises, how could they be qualified as officers? It strikes me that the whole of this latter part of the section is an extraordinary piece of Constitutional legislation. I do not know where it was found, though I was a member of the committee that reported it. Though my name appears to it, I do not pretend to father but very little of this report. It certainly was not found in the Constitution of Wisconsin, which has been copied up to this time, *verbatim et literatim*. It seems to me we had better dispense with the whole of it, and allow our officers to be qualified in the ordinary way, by appearing before some officer qualified to administer oaths, and taking the ordinary oath of office. If there is any good reason why these words should be retained, I do not know it.

The PRESIDENT. The motion of the gentleman from Chisago, (Mr. STANNARD,) must be first put, and then the other amendment will be in order.

The amendment was agreed to.

Mr. DAVIS moved to amend by striking out the words "at the Capitol in the city of "St. Paul," in the third line, and inserting the words "at the city of St. Peter, in the Capi- "tol buildings erected on the site selected by "building Commissioners, SECOMBE, *et. al.*

Mr. LOWE. I hope that amendment will prevail. We all know that the expense of living in St. Paul has been more than it ought to he, and I am of opinion that we might live more economically in St. Peter. I speak of those who have occasion to assemble at the Capital. It is on that ground that that I favor the amendment. I believe the people of St. Peter, for the sake of getting the Capital there, would be willing to furnish us with accommodations at a reasonable price.

Mr. PERKINS. I hope it will prevail for this reason also, that St. Peter has failed in her endeavors to carry a great many things thus far, and if we can give her a lift now, we better do it, and satisfy our friends and keep them from bolting.

Mr. COLBURN. I would inquire as to the convenience of the building at St. Peter. Is it as convenient as this?

Mr. McCLURE. Has it got two ends to it? [Laughter.]

Mr. DAVIS. I would say that the building is quite as good, if not better than this, and upon the site selected by the Commissioners. As to St. Peter having failed in everything she has undertaken, I would inform the gentleman from Rice county that he is mistaken. She has endeavored to get up a good city there, and she has done it.

The amendment was rejected.

Mr. COGGSWELL. I now move to strike out all after the word "each" in the eleventh line.

The amendment was not agreed to.

Mr. FOLSOM. I move to strike out "Tuesday" in the second line, and insert

the words "Thursday at twelve o'clock M." Tuesday is a bad day, and will compel members to travel on the Sabbath to get here. We have heard a great deal about breaking the Sabbath in the organization of this Convention.

The amendment was agreed to.

Mr. McCLURE. I move to strike out all after the words, "in each branch," in the eighth line. I hope before gentlemen vote upon my amendment, they will look carefully at the clause I propose to strike out. I am aware that the Chairman of the committee on the Schedule is a man of a high sense of propriety, but it seems to me that he is giving a little more dignity to the officers contemplated by this section, than is absolutely necessary, in initiating them into office in a country like this. They must all appear at the Capitol, and in the presence of both branches of the Legislature they must take an oath to support the Constitution of the State of Minnesota, and then they must retire formally, I suppose, to the discharge of the duties of their respective offices. So much formality seems to me unnecessary. Although it is a solemn thing to take an oath of office at any time, it seems to me that it is not necessary to come to St. Paul or St. Peter, and before the Legislature, to do it.

Mr. SECOMBE. I move to amend the amendment by striking out all after the word "each," in the eleventh line, and the words, "and shall," in the fifteenth line, and insert the following:

"And the several persons elected to the said offices shall, as soon as may be practicable thereafter, be sworn into office before any person authorized to administer oaths, and shall file their oaths of office in the office of the Secretary of State."

The amendment to the amendment was not agreed to.

The amendment was then agreed to.

Mr. PECKHAM. The first part of this section provides that the Election Commissioner shall, at the assembling of the Legislature, attend with a list of the members elect in each House. Now the Election Commissioner cannot perform that duty unless he has the power of being in two places at the same time. I move to strike out the whole section, and something else can be substituted for it. We have already stricken out the latter half, and I move to strike out the first half.

The motion was not agreed to.

Mr. HARDING. I move to strike out the word "second," in the second line, and insert "first," so as to provide for the meeting of the Legislature on the first Thursday of January.

The amendment was agreed to.

Mr. HUDSON. I move the following substitute for the section:

"The first session of the Legislature of the State of Minnesota shall commence on the first Thursday of Janury next, at 10 o'clock A. M., and shall be held at the city of St. Paul, which shall be and remain the seat of Government until otherwise provided by law."

Mr. HARDING. I move to amend the amendment by striking out all after the words, "Saint Paul," and inserting, "until "the year 1865, when the seat of Govern- "ment shall be permanently established by "the Legislature."

The amendment to the amendment, and the amendment itself, were rejected.

"SEC. 7. All county, precinct and township officers, shall continue to hold their respective offices unless removed by the competent authority, until the Legislature shall provide by law for filling such offices respectively in conformity with the provisions of this Constitution."

Mr. FOLSOM. I move to insert the words, "and municipal," after the word "township."

The amendment was agreed to.

Mr. COGGSWELL. I move to strike out all after the word "authority." If we adopt the whole of this section, no county officer can be elected, in my judgment, at the time our State officers are elected, or at the time our Constitution is adopted.

The amendment was agreed to.

"SEC. 8. The President of this Convention shall, immediately after its adjournment, cause a fair copy of this Constitution to be forwarded to the President of the United States, to be laid before the Congress of the United States at its next session."

Mr. KEMP moved to strike out the word "fair."

The amendment was agreed to.

Mr. STANNARD moved to strike out all after the words, "United States."

The amendment was agreed to.

Mr. COGGSWELL. I now move to strike out the balance of the section. I do not see any object in forwarding a copy of the Constitution to the President of the United States, any more than in forwarding a copy to Mike Walsh, in the city of New York. He has nothing to do with it. until it is ratified by the people. It might give him some information about what we have been doing here, but he can get that from the papers just as well.

The amendment was agreed to.

Mr. SECOMBE. It seems to me that the provisions in section nine, for voting upon this Constitution, are not sufficiently definite. Its language is this: "On such ballots as "are for the Constitution, shall be written or "printed the word 'yes,' and on such as are "against the Constitution, the word 'no.'" Now that day of election is the day of the Territorial Election, and it is not impossible that there may be submitted to the people on that day two Constitutions. If that should be the case, and a ballot should be handed in to the officer, simply with the words "yes" or "no" upon it, what understanding would the officer get from it? I propose to amend by inserting before the word "yes" the words, "the Constitution adopted August —, "1857," and before the word "no" the same language.

Mr. HUDSON. Suppose both Constitutions should be adopted the same day?

Mr. SECOMBE. I have left the date for the day blank, as it is not probable they will be adopted by the Conventions on the same day. If they should be, some further designation would be needed.

Mr. KEMP. I move to amend the amendment so that it shall substantially read, "The "Republican Constitution, adopted Aug. —, "1857, &c." Then the people in the country will be sure to know what Constitution they are voting for; whereas, under the other form, they might be ignorant of the day upon which the two respective Constitutions were passed.

Mr. PERKINS. I shall vote for this amendment, if it will obviate the difficulty which, it has occurred to us, might be in the way, ever since we have been forming this Constitution. The question with us has been, how shall we get this Constitution before the people, and have the vote upon it properly defined, if another Constitution should also be before the people? That problem has not yet been satisfactorily solved. How can a distinction be made between the two? It seems to me that the proposed amendment does not get rid of the difficulty. And as to labelling it "Republican," that would be a little out of character, when in fact it should be and is, a Constitution for the people of the State of Minnesota. I do not know that any distinction at all can be made.

Mr. NORTH. Can any other ballots on that day be received by the Commissioners appointed under the provisions of this report, except ballots which are cast for or against this Constitution? If these Commissioners were empowered on that day to receive ballots for other purposes, there might be confusion. But it seems to me that these Commissioners have nothing else to do. They must have a box distinctly devoted to this Constitution, and there can be no difficulty arising.

Mr. SECOMBE. The judges of election, under the article adopted, are the judges under the Territorial organization—the primary officers for receiving the votes. The Commissioners appointed are merely the County Commissioners to whom those votes are returned.

Mr. HUDSON. I do not think it is worth while to spend too much time upon this. It seems to be the impression, that through the Committee of Conference, there will be but one Constitution submitted, or if that is not done, that an arrangement will be made by which the two shall be submitted upon the same day.

Mr. MILLS. I hope this section will be permitted to remain as it is, and if any distinction is to be made, let the other party make it.

The amendment to the amendment, and the amendment itself, were rejected.

Mr. COGGSWELL moved to amend section nine, specifying the qualifications of those who shall vote upon the Constitution, by striking out "three months" and inserting "thirty days," so that it shall read—

"All persons who have resided in the proposed State thirty days, and are otherwise duly qualified &c., shall be entitled to vote for or against the adoption of this Constitution, and for all officers first elected under it."

Mr. FOLSOM. It appears to me that three month's residence is a short period enough. We know that two or three thousand voters will be brought into the Territory to work upon the railroads, thirty days or more before election, and I do not think they are prepared to vote upon our Constitution.

Mr. KING. I do not think the objection of the gentleman from Chisago is exactly right. We know that the Republicans will act honestly, while the other side will not. They will import votes anyhow, and put them through. Now I want to have as good a chance as they, without violating any law or principle.

Mr. COGGSWELL. I hope before members vote this amendment down, they will take into consideration the circumstances which surround us, and the rights of the actual residents of this Territory who expect to remain here, in regard to voting either for or against this Constitution. As far as I am concerned, I have no knowledge of any intention of importing three or four thousand men into our Territory within the next forty or sixty days, and indeed, I do not believe there is any intention upon the part of any one to carry out a scheme of that character. It seems to me that there cannot be a very large importation of men by Republicans or Democrats between the time this Constitution shall be sent forth from our hands, and the time when the people will be called to vote upon it. And furthermore, I can see no inducement. Men certainly will not be brought here for the purpose of commencing operations on our railroads, and if they are brought here at all, it will be for the purpose of voting for or against this Constitution. We have no right to suppose that our friends, or our political enemies, will resort to any such measures. Now it seems to me that every person who comes into our Territory with the intention of making his permanent residence among us, should have the right to vote for or against this Constitution. It is to effect not only him, but his posterity for all time to come, and it seems to me as though we could trust him with that right. For the purpose of securing them that right, I want at least no longer than thirty days' residence in the Territory required. In Wisconsin, every *bona fide* resident was permitted to vote for or against her Constitution. But I do not propose to go as far as the Constitutional Convention of Wisconsin went. I would require a residence of thirty days, which I think is long enough to manifest an intention of remaining, and of making this their permanent home.

Mr. HARDING. I move to amend the amendment by striking ont "thirty" and inserting "ten."

The amendment to the amendment was not agreed to.

The amendment was agreed to.

Mr. ROBBINS moved to amend the ninth section by inserting after the word "appointment," line sixteenth, page seven, the following:

"He, (the State Election Commissioner) shall also appoint three judges of election in each election precinct within the limits of the proposed State, whose duty it shall be to receive the votes upon the Constitution, and make a transcript of the same to the appointed Election Commissioners of the particular county or district."

Mr. ROBBINS said:—My reason for offering this amendment is, that in many of the precincts of my county—and I suppose the same is true of other counties—the present judges of election are Democrats, and will not receive the votes upon this Constitution, or recognize the action of this Convention in any manner whatever. To make it certain that we shall have a full return of votes upon the Constitution, there should be a full set of officers appointed, from State Commissioner down to precinct officers.

Mr. COGGSWELL. This section appoints ST. A. D. BALCOMBE State Election Commissioner, to perform such duties in regard to the voting upon this Constitution as are now required by law to be performed by the Secretary of the Territory in regard to other elections; and if, in case he is unable to act, he may designate his successor. Suppose he should die and fail to do so? It seems to me that further provision should be made to meet every possible contingency.

Mr. MILLS. I would enquire whether it would not be the duty of the county commissioners of each county to look after that particular county, in regard to the precinct election officers?

Mr. ROBBINS. I think not, under this section as it now stands. I think perhaps it

would be better to have the county commissioners appoint these precinct officers, rather than that the State Commissioner should do it.

The amendment was rejected.

Mr. ROBBINS. I move to amend by striking out all after the word "same" in the ninteenth line, page seven. The portion which I move to strike out provides for the election of State officers and members of Congress on some day subsequent to the adoption of the Constitution. My object is to elicit an expression of opinion on this one point—whether it would be advisable to have the election for such officers on the same day we vote upon the Constitution or not.

Mr. HUDSON. Members seem quite indifferent about this whole report. I suppose it arises from the expectation of some compromise, which will render our labors upon this report useless.

Mr. STANNARD. I move that the committee rise, report progress, and ask leave to sit again. This report has been laid upon our tables this morning and we have not had time to consider it.

Mr. ROBBINS. I ask for the question on my amendment first.

The question was taken and the anendment was agreed to.

Mr. STANNARD. I now make my motion.

Mr. PERKINS. The reason for the motion certainly is a good one. I would like to have it deferred until we can have time to investigate it.

The motion was agreed to, and the committee accordingly rose, reported progress and asked leave to sit again.

Leave was granted.

COMPROMISE PROCEEDINGS.

The Sergeant-at-Arms announced Mr. J. J. NOAH, Secretary of the Convention in the west end of the Capitol, charged with a communication, in writing, from the President of that body; which was laid upon the President's table.

Mr. STANNARD. I move that the Convention take a recess until two and a half o'clock.

The motion was lost.

Mr. STANNARD. I move a call of the Convention.

The PRESIDENT decided that a call was not ordered.

Mr. STANNARD. I hold that a single member may demand a call.

The PRESIDENT. The Chair thinks that it requires ten members. Rule thirty is explicit upon that point.

Mr. STANNARD. I submit to the ruling of the Chair.

Mr. ALDRICH. I move that the Convention take a recess for twenty minutes, for the purpose of going into caucus.

The motion was lost.

(Cries of "read" "read.")

Mr. NORTH. I move that this Convention take a recess until two and a half o'clock.

The motion was not agreed to.

(Renewed cries of "read" "read.")

Mr. SECOMBE. I move that the communication laid upon the table be now read.

The motion was agreed to.

Mr. KEMP. I rise to a question of order. That communication is not business connected with this Convention.

The PRESIDENT. The communication has been ordered to be read.

The communication was read, and is as follows:

"CAPITOL, ST. PAUL, August, 18th 1857.

HON. ST. A. D. BALCOMBE,

President:

"SIR:—The Convention over which I preside has this day penned a resolution authorizing me 'to appoint a committee of five to confer with a committee appointed by the Convention holding sessions in the Representatives Hall of this Capitol,' designated in your communication of this day.

"In pursuance of said resolution, I have appointed Messrs. GORMAN, BROWN, HOLCOMBE, SHERBURNE and KINGSBURY such committee.

"A certified copy of the resolution referred to is herewith enclosed.

Very Respectfully,

Your Obedient Servant,

H. H. SIBLEY, President.

"*Resolved*, That the President of this Convention is hereby authorized to appoint a committee of five, to confer with a committee appointed by the Convention holding sessions in the Representative Hall in this Capitol, upon the subject designated in the communication just received, and that the President is hereby authorized to communicate the action of this Convention to the Convention over which the Hon. Mr. BALCOMBE presides.

"A true copy.

Attest, J. J. NOAH, Secretary.

The Convention then took a recess until half past two o'clock.

AFTERNOON SESSION.

THE SCHEDULE.

On motion by Mr. HARDING, the Con- Whole, (Mr. WILSON in the Chair,) and re- vention resolved itself again into committee of the sumed the consideration of the Schedule, (Report number twenty-four.)

Mr. PECKHAM proposed further to amend the ninth section, by adding in the ninth line, the words "the Secretary of this Convention "—L. A. BABCOCK," so as to appoint two, instead of one State Election Commissioner, viz: ST. ANDREW D. BALCOMBE, and L. A. BABCOCK.

The amendment was agreed to.

The section was then made to correspond grammatically, with the last amendment, creating two Commissioners instead of one.

Mr. GALBRAITH. I ask leave of the committee to move that the committee rise, report progress, and ask leave to sit again.

The motion was agreed to.

The committee accordingly rose, reported progress and asked leave to sit again.

Leave was granted.

On motion of Mr. GALBRAITH, the Convention then took a recess for fifteen minutes.

At the expiration of the time of this recess, the President resumed the chair, and the Convention resolved itself again into committee of the Whole—Mr. COLBURN in the Chair —and resumed the consideration of the Schedule.

Mr. SECOMBE moved so to amend as to authorize the County Commissioners to appoint three judges of election to each election precinct, which was agreed to.

Mr. MILLS moved to amend section nine by striking out the words "and vacancies in the election offices filled."

The clause reads as follows:

"The election shall be conducted in all respects, and vacancies in the election offices filled, in the manner now prescribed by law."

The amendment was agreed to.

Section ten was then read, which provides for districting the State for members of the Senate and House of Representatives.

Mr. HARDING moved to amend by striking out the word "three" and insert "four," so as to make it read:

"In the seventh district, the County of Dodge and the County of Steele shall together elect four representatives and one senator."

Mr. SECOMBE. I think before the committee do that they had better ascertain where they are going to cut off an additional representative. I suppose this apportionment has been made for a certain number.

Mr. MANTOR. I would like to know upon what basis this apportionment was made? It seems to me there is something wrong, but I do not know where it is. I see Olmsted county is allowed four representatives and one senator, while the counties of Dodge and Steele have only three representatives and one senator. I know there is a greater population in those counties than there is in Olmsted county.

Mr. MORGAN. I move to amend so that Dodge county shall have two representatives and Steele two representatives, and they together one senator.

Mr. SECOMBE. I do not know as I shall have a better opportunity to say a few words upon some things I notice in this report, than the present. The question bas been asked, what basis has been taken in making out this report. It would seem as though no regular basis had been taken. For instance, in the first district the county of Houston has four representatives and one senator. There is a senator to four representatives. In the second district, the county of Fillmore bas four representatives and two senators. There is a senator to two representatives. In the third district, the county of Mower has two representatives and one senator. There again is one senator to two representatives. In the fifth district, Winona has four representatives and the county of Wabashaw two representatives, and together they have two senators—in all six representatives and two senators—one senator to three representatives. And so on throughout the section.

Without going any further, we find three ratios—a senator to two, to three, and to four representatives. Now I cannot see that there is any basis there. It seems to be a sort of sliding scale. I presume there is some compensation somewhere. If they could not give a county a sufficient number of representatives, they have given it more senators. But certainly there does not seem to have been any fair apportionment.

Mr. MORGAN. I withdraw my amendment to the amendment.

Mr. MANTOR. I do not wish to discuss this matter. But I am satisfied that Dodge and Steele have a larger population than some counties which are allowed four representatives. I am quite well acquainted with Dodge county and some portions of Steele county, and I am satisfied, from personal knowledge of that fact. I do not think it will be doing more than justice to that district to give them another representative.

The amendment was agreed to.

Mr. WATSON. It is provided in the eighth district, that Waseca shall elect one representative and Freeborn one representative, and they together one senator. Now I am satisfied that there is something wrong about that. I know that those two counties are entitled to a larger representation. Their population as handed in to the committee was 9000, and they have only one representative each. As the apportionment was first made by the committee, Freeborn and Faribault counties were put together as one district, and given three representatives. The district was afterwards recast and Freeborn and Waseca were put together, and allowed only two representatives; whereas, they are better entitled to three than Freeborn and Faribault. I move to add, after the word "elect," the words "one representative and." That will give each county one representative, and together one senator.

Mr. MURPHY. It seems every district wants an additional representative. Now when we come to our district we shall want the same addition. It seems to me that this is not right, and that the report had better be referred back to the committee for their revision.

Mr. WATSON. We might just as well say that every report, which we do not perfectly agree upon, shall be referred back. I think we can fix this matter up here just as well.

The amendment was rgreed to.

Mr. CLEGHORN. There is evidently no quorum present, and I move that the committee rise.

The motion was agreed to, and the committee accordingly rose and reported that the Convention had found itself without a quorum.

And then, on motion of Mr. MURPHY, (at 4 o'clock and 20 minutes) the Convention adjourned.

THIRTY-THIRD DAY.

WEDNESDAY, August 19th, 1857.

The Convention met at nine o'clock, A. M.

Prayer by the Chaplain, Rev. E. D. NEILL.

The Journal of yesterday was read and approved.

THE SCHEDULE.

On motion of Mr. HARDING, the Convention resolved itself into Committee of the Whole, Mr. COLBURN in the chair, and resumed the consideration of the Schedule.

The Clerk resumed the reading of the tenth section by clauses.

Mr. DAVIS. In the thirteenth district, I move to strike out "one" after Nicollet, and insert "two," so as to give Nicollet two representatives. That county has probably between 6500 and 7000 inhabitants. It is one of the oldest counties in Minnesota—has several large towns, and is thickly settled. I have no desire to ask anything more than is right for my county, but what is right I do demand, and hope the Convention will not refuse to grant it.

The amendment was agreed to.

Mr. SMITH. In the twelfth district, I move to amend so as to give Carver county two representatives instead of one. I do not know upon what basis this division is made, but I think she is entitled to two representatives.

Mr. HUDSON. The basis is 8000 for senator and 3000 for representative.

Mr. SMITH. All I ask for Carver county, is her due representation.

Mr. MORGAN. In regard to Carver county, I think the apportionment was made upon actual returns, while that of other counties was made upon estimates. My belief is, that Carver contains a larger population than Nicollet. I was opposed to giving Nicollet county an additional representative.

Mr. HUDSON. The committee labored under some disadvantage in making this apportionment. They obtained the population

of each county as best they could. Gentlemen handed in their estimates, in the first place; and then the committee took the vote which was cast in the respective counties at the last election and made estimates from them, and in these various ways they arrived at their conclusions to the best of their ability. Eight thousand was then made the basis for Senator and three thousand for Representative. If, in some instances where the population fell short of what was required for one Senator, the committee gave one Senator, but in some measure compensated by giving less than the number of Representatives the county was entitled to. This was the only course they could pursue, and in the aggregate they considered it as nearly right as possible.

Mr. SMITH. I move that Carver county be allowed two representatives.

The amendment was agreed to.

Mr. NORTH. In the tenth district, Dakota is allowed four representatives and Rice three representatives, and they together elect three Senators. I move as a substitute for that provision the following:

"In the tenth district the county of Dakota shall elect three Representatives and two Senators; and the county of Rice three Representatives and two Senators."

The substitute was adopted.

Mr. GERRISH moved to amend the provision for the fifth district, by giving Winona and Wabashaw counties one additional representative each, and increasing their Senators from two to three.

The amendment was not agreed to.

Mr. BOLLES. The tenth district has been altered so as to give Dakota and Rice counties each three representatives and two Senators. I think, now, they should constitute separate districts.

Mr. HUDSON. I have just prepared an amendment to the following effect:

"In the tenth district, the county of Dakota shall elect three Representatives and two Senators; and

"In the twenty-first district, the county of Rice shall elect three Representatives and two Senators."

That will make them separate districts, and by placing Rice county as the twenty-first district, we avoid the necessity of changing all the numbers of the districts following the tenth.

The amendment was agreed to.

"SEC. 11. The several elections provided for by this article, shall be conducted according to the existing laws, except as is otherwise herein provided, and the returns of the elections for all officers shall be made to the county election commissioners; and a full abstract of all the votes cast for each and every office shall be made to the State election commissioners, who shall make public proclamation of the aggregate of the votes cast for each office, in every district, and of the persons in each district who are elected to the several offices voted for."

Mr. SECOMBE moved to amend section eleven by adding thereto the following:

"And the several persons so declared elected to the said offices, shall, as soon as practicable thereafter, take and subscribe the requisite oath of office, before any officer authorized to administer oaths, which said oaths of office shall be filed in the office of the Secretary of State; and the said persons shall immediately thereafter enter upon the duties of their said offices."

Mr. BILLINGS. That amendment covers the ground of a provision in section six, for a similar purpose, which the committee struck out yesterday. Now I prefer that portion of section six to this amendment.

Mr. SECOMBE. It is not similar, but radically different from the proposition struck out yesterday. That provision was that on the next day after the organization of the Legislature all the officers elect should appear in one branch of the Legislature, and in the presence of both branches in Convention assembled, take the oath of office; and if they failed to take the oath at the time and in the manner prescribed, there was no provision made for their doing so at any other time, or in a different manner. The proposition I have submitted, it seems to me, would remedy all the difficulties which were suggested then. It does not require the officers to come to any particular place, but that they may take and subscribe the oath in the manner in which it is usually done, before any proper officer.

Mr. KING. Does it apply to town and county officers?

Mr. SECOMBE. To all officers mentioned in the section. It might, perhaps, be well to change the place of filing the oath, although in the first instance the office of the Secretary

of State would, perhaps, be the only place where they could be filed.

Mr. NORTH. It seems to me necessary that some provision of that kind should be inserted here, for the reason that there is no provision elsewhere prescribing how and when those officers shall take upon themselves the duties of their respective offices.

The amendment was agreed to.

Mr. MORGAN. I notice in the twelfth section, dividing the State into two Congressional districts, the new counties, which were formed last winter out of Brown county, are not included.

Mr. SMITH. I move to amend the twelfth section, by adding after the names constituting the second Congressional district the following:

"And all counties which now exist, or may hereafter be formed north of the Minnesota river and forty-fifth degree of north latitude, not otherwise provided for."

Mr. BALCOMBE. I would suggest the propriety of obtaining from the Secretary of the Territory, the names of the new counties, in preference to adopting an amendment so indefinite.

The amendment was not agreed to.

The twelfth section, apportioning the State into judicial districts was then read.

Mr. MORGAN. I have an amendment which affects three or four of the districts, and I will move the amendments as one. It is to amend by taking the county of Dakota from the first judicial circuit and annexing it to the fourth; by taking the county of Sibley from the third, and the counties of Le Sueur and Nicollet from the fourth, and annexing them to the fifth; and by taking the counties of Mower and Dodge from the fifth and annexing them to the sixth.

The reasons for my amendment are these: The county of Dakota is placed in the first district with Ramsey. Now my belief is, that the county of Ramsey has more legal business than any other circuit in the State, while the fourth judicial district is one hundred and sixty miles long, and only fifty or sixty miles wide—a very bad shape. By adding Dakota to it, the shape will be improved.

The counties of Sibley, Le Sueur and Nicollet, added to the Fifth Judicial Circuit, will make it a compact district, and one of good shape.

Mower and Dodge added to the Sixth will make a district of six counties, and be compact.

That is the arrangement which I understand was first made by the Committee, and so read to a portion of the members assembled here.

Mr. BALCOMBE. I believe these judicial circuits, as reported by the Committee, are in accordance with the wishes of most of the members who represent these various districts. I do not see the necessity of the change proposed. I think the districts, as now arranged are of contigious territory and very compact, and they have been arranged upon consultation with the members from the various localities.

Mr. PERKINS. The gentleman objects to the Fourth District as being in very bad shape, and he proposes to correct it by adding Dakota county to the district. Now all I have to say in that regard is, that I think the inhabitants of that district would be very well satisfied with the arrangement made by the committee, and that they would not be particularly desirous of having Dakota added. And as far as the shape is concerned, it appears to me that it is made worse by that addition. It would not add one iota to the symmetry of the district.

Mr. MORGAN. I proposed not only to add Dakota, but to take away the counties of Le Sueur and Nicollet. That would shorten the district fifty miles.

Mr. PERKINS. I did not hear that part of the gentleman's proposition.

Mr. SECOMBE. The adoption of the amendment proposed by the gentleman from Hennepin will leave the report in exactly the shape in which it was first proposed by the committee, upon consultation with gentlemen of the bar, and read to the Convention in caucus. No objections were made to it, but since, alterations have been made by the committee which are proposed to be changed back again by the gentleman from Hennepin. The original arrangement was made upon request of the members of the committee on the Schedule, that certain gentlemen, members of the bar, should propose a plan. A plan was proposed and adopted by the committee, and

submitted to the members of the Convention in caucus, and no individual made an objection to it. I believe it should be changed back to its original form.

Mr. BALCOMBE. There were some changes made, at the request of members from these various localities, after the subject had been submitted to the members in caucus. The different districts are satisfactory to the members from those districts, and while that is so, members from other districts ought not to object. If the gentleman wishes to make a change in his own district, I have no objection, but I object to his urging the change of other districts which are entirely satisfactory to the representatives from those districts.

Mr. MANTOR. I hope the amendment will not prevail. I am opposed to any change in the shape of the Fifth District. When the report was first made in caucus I was in favor of having Dodge county attached to the Sixth District as now proposed by the gentleman from Hennepin, but upon more mature consideration I am satisfied that the present arrangement is the better one. I ask it as a matter of favor, to say the least of it, that we shall be permitted to have the matter our own way.

Mr. MORGAN. As members seem to be satisfied with the changes which have been made in their own districts, I withdraw my amendment, as a whole, and move to amend by striking Sibley county from the Third District, and attaching it to the Fifth.

Mr. MANTOR. I really hope the good sense of the Convention will vote that down.

Mr. SECOMBE. I hope the good sense of the Convention will adopt it. The amendment of the gentleman from Hennepin was withdrawn, with the understanding that an amendment might be made so far as the Third District is concerned.

Mr. WATSON. The gentleman from Hennepin seems to have a nice idea of symmetrical forms. If they are desirous of getting rid of Sibley, I hope they will attach it to the Fourth District, instead of the Fifth. It would be distorting the Fifth District out of all proper shape.

The amendment was rejected.

Mr. COLBURN. I would call the attention of the Convention to the eighth section, for the transmission of a copy of this Constitution, immediately after our adjournment, to the President of the United States. I would like to have it amended so as to provide that the President of this Convention immediately after the adoption of the Constitution by the people, shall transmit a copy to the President of the United States. I do not see the propriety of forwarding a copy before its adoption by the people.

Mr. HARDING. I move to strike out the whole section.

Mr. COLBURN. Whose duty, then, will it be to forward a copy to the President? It appears to me that if the people adopt this Constitution, it should be sent to Congress for ratification by them, and we should make it the duty of some one to transmit a copy. The President of the Convention is the proper person to do it.

Mr. HARDING. I suppose we shall have a delegate in Congress whose duty it will be to present this Constitution to Congress.

The motion to strike out was lost.

Mr. NORTH. I move to amend section nine by inserting before the words "yes" and "no," respectively, the words "the Constitution of the State of Minnesota" so that the clause shall read:

"On such ballots as are for the Constitution, shall be written or printed the words "The Constitution of the State of Minnesota, Yes," and on such as are against the Constitution, the words, "The Constitution of the State of Minnesota, "No."

The amendment was agreed to.

Mr. MORGAN. It strikes me that the term "Commission Officers," is not a very good term by which to designate those persons to whom the returns are to be made.

Mr. COLBURN. I move to strike out those words and substitute "Election Commissioners."

The amendment was agreed to.

Mr. NORTH moved to amend section nine, page seven, line fifteen, by inserting "election" between the words "county" and "commissioners."

The amendmend was agreed to.

Mr. DAVIS. I move to amend that part of section ten, which refers to the Sixth Senatorial District, by striking out "one" and inserting "two," so that it shall read—

In the sixth district, the county of Olmsted shall elect four representatives and two senator.

Mr. BILLINGS. I hope that amendment will prevail, and I think no other reference need be made, than to the amendment which was made to the tenth district, giving Dakota and Rice counties three representatives and two senators each.

The amendment was agreed to.

Mr. COE. I move to amend the provision in reference to the first district, so as to give Houston county two senators instead of one.

The amendment was agreed to.

Mr. MORGAN. I move to amend the provisions for the sixteenth and seventeenth districts by striking out "Benton, Morrison and Todd" from the former district, and inserting them in the latter, and by striking out "Stearns and Sherburne" from the second of those two districts, and inserting them in the first.

My reason is that the two representative districts in those two senatorial districts are entirely separated by an intervening district. By making the change I propose, you bring them together.

The amendment was agreed to.

Mr. FOLSOM. I move to amend section twelve, by adding to the counties constituting the second congressional district, the names of Buchanan, Carlton and Mille Lac.

Mr. CLEGHORN. I move to amend the amendment by adding thereto the words—

"And all counties not otherwise provided for."

The amendment to the amendment was not agreed to.

The amendment was adopted.

On motion of Mr. PERKINS, the committee rose and reported to the Convention the report and amendments, with a recommendation that the amendments be concurred in.

The amendments of the committee of the Whole were severally concurred in, without debate, with the following exceptions:

The sixth amendment.—To strike out from the seventh section the words, "until the Legislature shall provide by law for filling such offices respectively, in conformity with the provisions of this Constitution," being under consideration.

Mr. PERKINS said:—It seems to me that the committee of the whole misapprehended the effect of striking out that part of the section, and leaving only the first part, which reads as follows:

"All county, precinct, township and municipal officers shall continue to hold their respective offices, unless removed by competent authority."

Now the idea we should convey is this: That all officers in office at the time of our transition from a Territorial to a State Government shall hold their offices by competent authority, or until others are elected to fill their places.

The amendment of the committee was not concurred in.

Mr. PERKINS. I move to amend that section by striking out the words, "shall continue to hold their respective offices," and insert—

"Holding their respective offices at the time of the change from a Territorial to a State Government, shall continue to hold the same."

The amendment was not agreed to.

Eleventh Amendment.—Amend the ninth section by striking out the following words: "Whereupon an election shall be held for Governor, Lieutenant Governor, Treasurer, Attorney General, Auditor, Superintendent of Public Instruction, Members of the State Legislature, and Members of Congress, and such other officers whose elections are herein provided for, on the ——— day of ———, and no further notice of such election shall be required."

Mr. SECOMBE. I hope that amendment will not be concurred in. That is the only section which makes any provision for the election of State Officers.

Mr. ROBBINS. If that part of the section is not stricken out, the election will take place subsequent to the adoption of the Constitution. It has been my desire that the election for State Officers should be held at the same time the people vote upon the adoption or rejection of the Constitution. And especially would I desire to have it so, if there is but one Constitution submitted to the people.

The amendment was not concurred in.

And then, on motion of Mr. KING, the Convention took a recess until half past two o'clock.

AFTERNOON SESSION.

The Convention re-assembled at half past two o'clock.

SCHEDULE.

The Convention resumed the consideration

of the amendments recommended by the committee of the Whole, to the report on the Schedule.

The amendment to add to the eleventh section the words—

"And the several persons so declared elected to the said offices, shall, as soon as practicable thereafter, take and subscribe the requiste oath of office, before any officer authorized to administer oaths, which said oaths of office shall be filed in the office of the Secretary of the State; and the said persons shall immediately thereafter enter upon the duties of their office"

—Being the next in order for consideration—

Mr. COLBURN moved to amend the same by striking out all after the words, "persons shall," and insert—

"Enter upon their duties immediately upon the admission of Minnesota into the Union as a State."

Mr. C. said: If I understand the amendment recommended by the committee of the Whole, it is that when our State Officers are elected under this Constitution, the State Commissioner is to announce that fact, and that as soon as practicable thereafter, they are to take their oaths of office and assume the functions of officers of the State of Minnesota. Now I am opposed to such a provision. I am in favor of their assuming the duties of their offices whenever Minnesota is recognized as a State by Congress, and not before. I do not agree with some gentlemen, that we become a State in fact, the moment our Constitution is adopted, whether we are recognized by Congress or not. There is something more to be done before we are clothed with all the powers of a State Government. The Enabling Act provides for the election of delegates to frame a Constitution preparatory to our admission as a State. We are to be admitted as a State upon certain conditions, and those conditions are that we shall come in, in accordance with the Federal Constitution. We assume that we have complied with every condition of the Enabling Act, but who is to decide that question?

We are not the final arbiter. The Constitution of the United States requires that we shall come with a Republican form of government. Congress may say that our form of government is not Republican. I do not presume that they will say that, but they may do it. Or we might frame a government which is not Republican, and if we should, clearly we should not be entitled to admission under the Enabling Act. Is not Congress to examine the Constitution, and decide that question?

We have provided that our State officers shall not be elected at the time the people vote upon the Constitution, but on a subsequent day. Suppose the Constitution is adopted and we go on and elect our State officers. Considerable time must intervene between the adoption of the Constitution and the election and qualification of State officers. Now if gentlemen are correct in the position they assume, we shall be a State in fact, governed by Territorial and United States officers. Now I say if our State officers are to assume their duties immediately upon the adoption of this Constitution, I say let us go back, and provide for their election at the time the Constitution is adopted. But I prefer to leave that provision as it is, and provide that the officers shall assume their duties whenever the State is recognized by Congress, and when we are admitted into the Union as a State, and not before. I hope the amendment to the amendment will be adopted.

Mr. NORTH. Mr. PRESIDENT: It seems to me there is no difficulty in meeting the objections to a State government before admission. I am aware that there are difficulties in the minds of some gentlemen upon the question. Should we elect a Legislature, and have them acting as a State Legislature whilst we are making application for admission,—would their laws, passed before or after admission, be Territorial or State laws? What should be our action? Here we have a State Constitution—the Constitution we suppose to have been acted upon by the people—adopted as the Constitution of the State. Yet there is another government—a Territorial government existing, whilst this is in force—the Territorial officers holding on, right over the Constitution—two governments existing at the same time.

Now, as to this, the language of the Enabling Act is very plain: It authorizes us to form a Constitution and establish a State government preparatory to our admission into the Union. On the first page, it is enacted, after the description of the boundaries, that that the inhabitants of the Territory "be and they are hereby authorized to form for them-

selves a Constitution"—that is one thing; "and State government"—that is another thing—"by the name of the State of Minnesota, and to come into the Union on an equal footing with the original States, according to the Federal Constitution." Now it seems to me, from this language, that we should have a Constitution and State government before we can be in a condition to come into the Union. But, if we come in, we come in on a level with the original States. They came into the Union having State governments, therefore, when we come in, we should have a State government. If we come in, then we come in as a State government—not in a chrysalis condition, passing from a Territorial to a State form of existence. It seems to me, that this act gives us complete authority to become a State, in order to our application for admission.

Then again, on the third page, it is said, if they determine to have a State government and come into the Union—"And be it further "enacted, that in the event said Convention "shall decide in favor of the immediate ad- "mission of the proposed State"—showing that there might be a contingency in which they would not do so. They had their State Legislature, meeting and acting in the State of Michigan, and they continued their State government for some time before their admission into the Union, and I see no good reason why it could not be so in our case—especially, since the Enabling Act is so clear upon that point.

Several members calling for the reading of the section, as proposed to be amended, it was now again read through.

Mr. SECOMBE. Mr. PRESIDENT: I hope the amendment to the amendment will not be adopted, although perhaps some limitation should be made. It is true, sir, that there have been two minds among the members of this Convention, in regard to the right and the policy of organizing the State government previous to the admission of the State into the Union; but I have not supposed that any gentleman here advocated the idea, that, if Congress, from any factious motive, should refuse us admission into the Union, that then we have done entirely, and our work shall amount to nothing; and I hope such a sentiment will never prevail in this Convention. If we comply with the terms of the Enabling Act, and form a Constitution which the people shall ratify, and then make our application to Congress for admission into the Union—if our application should be refused, I for one shall not be willing to quietly sit down under a Territorial government, and have all that we have done pass for nothing. And that would be the effect of the amendment of the gentleman from Fillmore county—that the officers to be elected to form the State government shall not go into office until after the State has been admitted into the Union.

We have not yet fixed the time of holding these elections. The time may, if necessary be postponed till November or January, or still later than January—until we may have an opportunity to see what action Congress will take. I will not object to such a postponement; but I do object most strenuously to inserting a provision which is going to make the Constitution and State government void, if Congress should refuse to admit us into the Union.

Mr. COLBURN. Mr. PRESIDENT: I do not know but the amendment might be made so as to obviate some of the objections of the gentleman. But I fail yet to be satisfied that our government ought to assume all the prerogatives of a State Government, before we are admitted into the Union. We exist as a Territorial government, unquestionably, until we are recognized by Congress.

If two Constitutions are to be submitted, (and we have no right now to assume that there will not be,) it is quite probable that each section of the Territory will claim to have a ratified Constitution; and these two Constitutions will undoubtedly go before Congress, each section claiming to be admitted with their particular Constitution. Under this state of things, we shall be delayed in our admission into the Union. Probably we shall be delayed for a long time. We do not know how long. We may have to wait months and even years. All speculation must be at fault in regard to the time we may be delayed. But, during this time, these Territorial officers are not going to give up—they are not going to cease exercising the functions of their commissions under the Federal Government. Suppose we go on and organize a State Government, complete in all its parts,

what are we going to do? Are we going to come into collision with the general government? I apprehend that there would be but one government, in reality, and that the Territorial government would be that government, whilst the other would be only a government in form. And then suppose again, another Constitution adopted, and another government formed. Sir, we do not know how long the conflict would be protracted, nor how far it might extend.

I believe, sir, that a just regard for the interests and well being of all concerned would lead us, by all means, to avoid any actual collision with the authority of the general government; and in the event of a State organization, unrecognized by Congress, it seems to me that our judicial system at least, must inevitably come into conflict with the Territorial judiciary.

My friend from Rice county, (Mr. NORTH,) supported his view, by reference to the circumstances of the admission of the State of Michigan. But the circumstances there were entirely different from ours. There were no two conflicting parties. There was at the time perfect harmony between the Territorial and State governments. Everything was going on smoothly, with nothing of that ardent and persistent struggling for power which appears in the Territory of Minnesota; and it seems to me, if we go on, regardless of the recognition of Congress, we shall fall into trouble, not easily to be got rid of.

Then in regard to the election of Representatives in the Legislature, Representatives in Congress, and United States Senators. These together with our State officers, should be elected, that they may be able to assume the duties of their offices the moment Congress shall recognize us as a State. Our Federal representatives might be elected, and in Washington, if you choose: There could no trouble grow out of that. I do not, however, deem it necessary that we should actually elect United States Senators before we are admitted,—not at all. For if that were absolutely necessary, it would be necessary for us to hold our State elections at the time of the adoption of the Constitution; otherwise our Senators might not be ready to take their seats at once. It requires time to organize a State government; and as for the election of United States Senators, that could be provided for, even if the State were to be admitted immediately upon presenting the Constitution. I can see no difficulty arising from the course proposed in the amendment, I have offered, and I think I can see very serious difficulties involved in the other course of procedure—a difficulty similar to that which has taken place in the Territory of Kansas. I think the organization of a State government there, was attempted at quite too early a day. It was a serious mistake for them to come into conflict with the government recognized by Congress. I trust that we shall profit by their example, and avoid the difficulties in which they have involved themselves.

Mr. PERKINS. Mr. PRESIDENT: I hope the Convention will be cautious enough, in adopting this Constitution, not to come into conflict with the general government; and it seems to me that such a case as this will bring us into direct conflict with the authority of Congress. It makes us liable to such a thing, to say the least. Now, sir, we come before Congress. We have adopted and ratified our Constitution and sent it there, at the same time giving out pretty strong intimations that, whether Congress admit us or not, we are determined to set up for ourselves. It seems to me that would not look very respectful, nor would it be very apt to conciliate Congress according to my view. I am not so much of a "squatter sovereign," myself as to think about getting up a State government in opposition to the authority of Congress, and set it revolving. I am not so much of a squatter sovereign, as to believe it best under the pressure of present circumstances, to do anything of the kind.

As I understand the case, action is to be had on the part of Congress, recognizing us as a State. We are authorized, it is true, to form a State Constitution, and come into the Union in accordance with the provisions of the Federal Constitution; and one of those provisions is, that Congress shall admit us as a State.

It seems to me that Congress must determine first, whether we have a Republican Constitution, and have a right to come into the Union. It does not seem to me that this Convention or the people of Minnesota are the only party to decide this question—not at

all. And, as it has been intimated, if we should disregard the will of Congress, we shall not only come into collision with the general government, but have on our hands a kind of triangular war with our political adversaries, and the Territorial authorities. I think, now, it is very probable there will be two Constitutions: and the two parties, distinctively claiming the State Government, if neither should be admitted by Congress, might both set up independent governments and set them to revolving. There would be two State Governments revolving at the same time, at war with each other, and with the general government. It seems to me that would be a very disgraceful state of affairs, and that it would be a very incautious and unwise movement for us to take any step that might lead us into such a difficulty. If Congress does not see fit to admit us, when we shall have complied with the terms of the Enabling Act—accepted all its conditions in a Republican Constitution and form of government, all we have to do is to feel like American citizens conscious of having done our duty, and wait for Congress to correct their own mistakes.

Mr. KING. Mr. PRESIDENT: it is unfortunate for us, that these gentlemen have not been able to see these difficulties a little sooner. If they will turn back the pages of the report, they will see that we have already determined that the Legislature shall not meet till the first Thursday in January, at twelve o'clock noon, 1858; and this being the case, I should think it would be about right, if they would fix their amendments so as to allow every department of the government to go into operation, and all the officers to be qualified, at the same time.

Mr. HUDSON. Mr. PRESIDENT: I understand, by the language of the Enabling Act, that the people of Minnesota are authorized "to form, for themselves a Constitution and "State Government," and that they are also authorized "to come into the Union." I understand, by this language, that Congress thereby opens the door and authorizes us to come in. We have come here to form a Constitution in accordance with that act. We propose to make for ourselves a State government according to that act, and to do everything required of us on our part toward going into the Union according to that act; and I have been under the impression throughout, that it was our wisdom to take care that no act of ours should contradict the idea, that we are to do here just precisely what Congress has authorized, in order that we may have a right to go into the Union; and if Congress, after all, should be disposed to say to us, you must stay out, that would be a matter for consideration afterwards. I cannot think we are going to have so much trouble as gentlemen imagine, talking about the conflict of three or four different kinds of government. But, if such a thing should happen, it will certainly make it, that our State will be a great place to get office; and that might induce a larger immigration and increase of population, which would be at least one great advantage.

Mr. BILLINGS made an ineffectual demand for the yeas and nays.

Mr. MORGAN. Mr. PRESIDENT: I would like to have the question divided, and taken first on striking out.

The PRESIDENT. According to our Rules, a motion to strike out and insert is indivisible.

The amendment to the amendment was adopted;

And then, the amendment as amended was rejected.

Mr. MORGAN moved to amend section thirteen by inserting the county of Crow Wing, in the second judicial circuit, that county having been overlooked.

The amendment was agreed to.

Mr. PECKHAM moved to amend the sixth section, by adding the letter "s" to the word "Commissioner," in the fourth line, and by striking out all between the word "House," in the fifth line, and the word "the," in the eighth line, and inserting the following:

"The first named of the said Election Commissioners, or his successor, as hereafter provided, after reading a list of the Senators elected to the members assembled in the Council Chamber of the Capitol, at the time above specified, shall call them to order, and act as presiding officer, until a temporary organization shall be effected; and the second named of the said State Election Commissioners, or his successor, after reading a list of the Representatives elected to the House of Representatives, shall call them to order and act as a presiding officer, until a temporary organization shall be effected by said House."

The amendment was agreed to.

Mr. MORGAN moved to amend section ten, by inserting the county of Crow Wing in the seventeenth district.

The amendment was agreed to.

Mr. KING moved to amend section five by striking out the words, "now" and "their," in the first line.

The amendment was agreed to.

Mr. GERRISH moved to amend section ten, page eight, lines fourteen and fifteen, by inserting after the word "representatives" where it first occurs the words, "and two "Senators," and by striking out all after the last "and," and inserting, "one Senator," so that the clause shall read—

"In the fifth district, the county of Winona shall elect four Representatives and two Senators, and the county of Wabashaw two Representatives and one Senator."

The amendment was agreed to.

Mr. NORTH moved to amend section twelve by taking the county of Rice from the second congressional district and placing it in the first.

The amendment was agreed to.

Mr. COLBURN. I move to amend that part of section ten which refers to the second district, by striking out the word "four" and inserting "six," so that it shall read—

"In the second district, the county of Fillmore shall elect six representatives and two Senators."

We clam a population for Fillmore County of fifteen thousand, while at the same time we are allowed only the same number of representatives as Winona, which only claims ten thousand five hundred.

The amendment was agreed to.

Mr. MANTOR moved to amend that part of section ten which relates to tbe seventh district, so as to give the counties of Dodge and Steele two representatives each, and together, one senator.

The amendment was agreed to.

Mr. KING moved to amend by giving the county of Olmsted, which constitutes the sixth district, two senators, instead of one.

The amendment was not agreed to.

Mr. SECOMBE. I move to amend section thirteen by striking out the county of Sibley from the third judicial circuit, and adding it to the fourth. As the section now stands there are eight counties in the third judicial circuit, each of which are well settled, and in each of which terms of court are now held and have been. There are three circuits which contain a less number of counties than this. One contains three, one four, and one six counties. I am satisfied that there are four circuits which will have a less amount of business than the third. If the change I propose is made, the third and fourth judicial circuit will each contain seven counties.

The amendment was not agreed to.

Mr. MURPHY. I move to amend that part of section ten which refers to the sixteenth and seventeenth districts by placing Todd County in the place of Sherburne, and Sherburne in the place of Todd County.

The amendment was agreed to.

Mr. NORTH proposed, after the word "Constituuion," in the fourth line of the sixth section, to add: "when the Register of Deeds "in their respective counties shall neglect or "refuse to act."

The amendment was agreed to.

Mr. MILLS. I move now to recommit this report to the select committee which reported it.

The amendment was not agreed to.

Mr. MORGAN. There are a number of blanks yet to be filled, and I move that this report be laid on the table until to-morrow.

The motion was lost.

Mr. SECOMBE. I hope this report will not be disposed of now. We have made no arrangement for ordering the election of officers at any time, nor have we taken any steps towards organizing a a State government.

Mr. HUDSON. I understand that these blanks can be filled up at the third reading of the report. It is in a bad shape now, and in fact we hardly know in what shape it is, so many amendments have been made. I am decidedly in favor of having it printed, and then we can perfect it.

The report was then perfected by filling various blanks with names, and the report, as amended was ordered to be engrossed for a third reading.

EXECUTIVE DEPARTMENT.

Mr. COLBURN. I move that report number two, upon the Executive Department, be now read a third time and put upon its passage.

The motion was agreed to.

The report was accordingly read a third time.

By unanimous consent, section nine of the report which related to the veto power of the Governor, was stricken out, the same ground being covered by a section in the report upon the Legislative Department.

The report, as thus amended was then passed.

On motion of Mr. KING (at a quarter before five o'clock) the Convention adjourned.

THIRTY-FOURTH DAY.

THURSDAY, August 20th, 1857.

The Convention met at nine o'clock, A. M.

The journal of yesterday was read and approved.

RESOLUTION.

Mr. MILLS offered the following resolution:

"*Resolved*, That upon the day that this Constitution is submitted to the people of this Territory for its adoption or rejection, the electors of the Territory shall, at each of the usual places of holding elections, open a ballot box and appoint judges and vote for the permanent location of the Capital of the State of Minnesota; and the city, town or village having the largest number of votes shall be the permanent Capital of said State.

"*And be it further Resolved*, That the aforesaid election shall be held and governed according to the provisions of the Constitution."

Mr. HUDSON. I hope we shall not pass any such resolution. I am decidedly opposed to undertaking to establish a permanent location of the Capital, by this Convention.

The resolution was laid over one day, under the rule.

THIRD READING OF REPORTS.

On motion of Mr. MANTOR, report number twenty, on the "Militia," was taken up, read a third time and passed.

On motion of Mr. BUTLER, report number twelve, on "State Officers other than Executive" was taken up, read a third time and passed.

STATE SEAL, &C.

On motion of Mr. HAYDEN, the Convention resolved itself into a committee of the Whole (Mr. THOMPSON in the Chair) upon report number seventeen, "on Seal and Coat of Arms."

The substitute reported by the committee in place of the original report, was read.

Mr. BILLINGS moved to amend by striking out the words "steamboat ascending," and inserting "canoe descending."

The amendment was not agreed to.

Mr. BILLINGS. If the gentlemen desire to retain the steamboat, I have no objection, but I really desire to have a canoe also. I therefore move to insert "and canoe" after the word "steamboat."

The amendment was agreed to.

On motion of Mr. NORTH, the committee then rose and reported back the report to the Convention, together with the amendment, with a recommendation that the amendment be concurred in.

The recommendation of the committee was concurred in, and the substitute, as amended, was ordered to be engrossed for a third reading.

Mr. GALBRAITH was excused from further service as Chairman of the committee upon Miscellaneous Provisions, and Mr. CLEGHORN was appointed in his stead.

PRINTING THE CONSTITUTION.

Mr. PECKHAM offered the following resolution, which, giving rise to debate, was laid over under the rule, viz:

"*Resolved*, That twenty thousand copies of the Constitution that may be adopted by this Convention, be printed in pamphlet form for general distribution."

SCHEDULE.

Mr. MANTOR, from the committee on engrossment, reported back as correctly engrossed, report number twenty-four, on the Schedule.

And then, on motion of Mr. HAYDEN, (at ten o'clock and thirty minutes,) the Convention took a recess until half-past two.

AFTERNOON SESSION.

The Convention re-assembled at half past two o'clock.

THIRD READING OF REPORTS.

On motion of Mr. BILLINGS, report number twenty-three, on Public Property, was taken up, read a third time and passed.

On motion of Mr. HAYDEN, report number sixteen, on Official Salaries, was taken up, read a third time and passed.

MISCELLANEOUS PROVISIONS.

Mr. CLEGHORN, from the committee on

Miscellaneous Provisions, made the following report, which was read a first and second time, and laid upon the table to be printed, viz:

"SEC. 1. The political year for the State of innesota shall commence on the first Monday of anuary of each year.

"SEC. 2. All persons residing upon Indian Lands within any county in this State or persons residing in any unorganized county, and qualified to exercise the right of suffrage under this Constitution shall be entitled to vote at the polls which may be nearest their residence, for United States, State, or County officers; *Provided*, that no person shall vote for county officers out of the county in which he resides.

"SEC. 3. The Legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy where no provision is made for that purpose in this Constitution.

"SEC. 4. No person convicted of any infamous crime, in any court, within the United States, and no person being a defaulter to the United States or to this State or to any county or town therein, or to any State or Territory within the United States, shall be eligible to any office of trust, profit or honor in this State.

SEC. 5. Members of the Legislature, and all officers, executive and judicial, shall, before they enter upon the duties of their respective offices take and subscribe the following oath or affirmation: "I do solemnly swear, (or affirm,) that I will support the Conatitution of the United States, and the Constitution of the State of Minnesota, and that I will faithfully discharge the duties of the office of according to the best of my ability." And no other declaration or test shall be required as a qualification for any office or public trust.

"SEC. 6. No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to requirements of any religious sect.

"SEC. 7. No perpetuities shall be allowed except for eleemosynary purposes.

"SEC. 8. Every person shall be disqualified from holding any office of profit in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

"SEC. 9. The Seal of the State shall be kept by the Governor or person administering the government, and used by him officially, and shall be called the Great Seal of the State of Minnesota.

"SEC. 10. An accurate and detailed statement of the receipts and expenditures of the public money, the several amounts paid, to whom, and on what account, shall from time to time be published as shall be prescribed by law.

"SEC. 11. There may be established in the Secretary of State's office, a bureau of statistics, under such regulations as may be prescribed by law.

"SEC. 12. If this Constitution shall be ratified by the people, the State Election Commissioners shall forthwith, after having ascertained the fact, issue writs of election to the several County Election Commissioners of the several counties of this State for the election of all the officers, the time of whose election is fixed by this Constitution, and it shall be the duty of said County Election Commissioners to give at least twenty days notice of the time and place of said election, in the manner now prescribed by law.

"SEC. 13. No navigable stream in this State shall be either bridged or dammed without authority from the Board of Supervisors of the proper county under the provisions of law. No such law shall prejudice the right of individuals to the free navigation of such streams or preclude the State from the further improvement of the navigation of such stream.

"SEC. 14. Whenever the office of United States Senator shall become vacant from any cause, either by expiration of term, death, resignation or otherwise, it shall be the duty of Governor, or person administering the government, to notify the Legislature at their first session thereafter, and on the first day thereof. And on the third day thereafter the members of the Senate shall assemble in the Hall of Representatives in joint convention, the President of the Senate acting as presiding officer thereof, and they shall proceed to fill said vacancy or vacancies, and the person having a majority of all the ballots cast at said election shall be declared duly elected.

"SEC. 15. There shall be elected in each judicial circuit at the time of the election of the Judge of said circuit two Regents of the University, whose term of office shall be the same as that of such Judge. The Regents thus elected shall constitute the Board of Regents of the University of Minnesota. The Regents of the University, and their successors in office, shall continue to constitute the body corporate, known by the name and title of 'The Regents of the University of Minnesota.'"

And then, on motion of Mr. ROBBINS, the Convention adjourned.

THIRTY-FIFTH DAY.

FRIDAY, August 21st, 1857.

The Convention met at nine o'clock, A. M.

The Journal of yesterday was read and approved.

LOCATION OF STATE CAPITAL.

Mr. MILLS' resolution, offered yesterday, with reference to submitting to the people the question of the permanent location of the

seat of government, coming up in order, for consideration.

Mr. FOLSOM submitted the following substitute:

"*Resolved*, That the first Legislature of this State shall make provision by law for the election of five State Capital Commissioners, whose duty it shall be to procure the title to six hundred and forty acres of land, as near the geographical center of the State as can be procured, suitable for the erection of the Capitol buildings and other buildings which may be deemed necessary for the future use of the State; on which land, when located, shall be and forever remain the permanent Capitol of the State of Minnesota."

Mr. STANNARD. I hope the substitute will prevail. As it is fashionable to make *capital* for number one, I do not see why the State should not make *Capitol* also.

Mr. CLEGHORN moved that the resolution and substitute be laid upon the table.

The motion was agreed to.

EXTRA COPIES OF THE CONSTITUTION.

Mr. PECKHAM'S resolution submitted yesterday, for printing twenty thousand copies of the Constitution, for distribution among the people, coming up in order.

Mr. BILLINGS said: I would amend that resolution, by adding that five thousand should be printed in the Norwegian, five thousand in the Sweedish, and five thousand in the German language. If we are to publish our Constitution at all, I hope it will be published more particularly for the use of foreigners, rather than for the use of those who have the means and facilities of obtaining it in the newspapers, and learning its provisions by conversation with others. Foreigners generally can obtain that information only by having it published in their own language. The copies in Sweedish can be published at Red Wing; those in Norwegian, at Madison, Wisconsin; and those in German, in this city.

Mr. PECKHAM accepted the amendment.

Mr. MORGAN. I would suggest that the difference between the Sweedish and Norwegian is so slight, that a publication in the Sweedish language would be sufficient.

Mr. CEDERSTAM. The difference between the two languages is not very great, yet the difference is so considerable that the common people have difficulty in reading both. I think, therefore, it would be best to publish it in both languages.

Mr. HAYDEN. I move to amend by inserting, "and five thousand in French."

The amendment was accepted by the mover, and the resolution as amended was adopted.

Mr. BILLINGS. I move that the committee on Printing he instructed to procure from the hands of the printers, all the engrossed reports, unpublished, in their hands, and return the same to the Convention.

The motion was agreed to.

Mr. KING moved a call of the Convention, which was refused.

Mr. KING moved that the Convention adjourn, which was not agreed to.

Mr. THOMPSON. I renew the motion for a call of the Convention.

The motion was agreed to, and the roll being called the following members failed to answer to their names:

Messrs. ALDRICH, AYER, BALDWIN, BATES, COGGSWELL, COOMBS, DICKERSON, FOSTER, FOLSOM, GALBRAITH, HALL, HUDSON, LOWE, MANTOR, MCCANN, MCKUNE, MCCLURE, MESSER, MURPHY, PUTNAM, STANNARD, SECOMBE, SMITH, WALKER, WINELL, and WILSON.

On motion of Mr. WATSON, all further proceedings under the call were dispensed with.

THIRD READING OF REPORTS.

Mr. KING. I move that the Convention take up report number eighteen, on the Judiciary, and put it upon its third reading.

The motion was agreed to, and the report was taken up and read a third time accordingly.

On motion of Mr. COLBURN, by unanimous consent, the last clause of section eight, as follows, was stricken out, viz: "All "judicial decisions shall be free for publica-"tion by any person."

The report, as thus amended, was passed.

On motion of Mr. COLBURN, report number twenty-one, on Taxation, Finance and Public Debt was taken up, read a third time and passed.

On motion of Mr. BILLINGS, report number fifteen, on "Amendments and Revision of "the Constitution," was taken up and read a third time.

By unanimous consent, the words, "ratify such," was inserted in line sixteen, between the words, "and" and "amendment;" also

the word "such," in the eighteenth line, before the word "amendment."

The report, as thus amended, was then passed.

Mr. BUTLER. I move that report number fourteen, on the Elective Franchise, be taken up, read a third time and put upon its passage.

The motion was agreed to.

The report was accordingly taken up and read a third time.

Mr. BOLLES. I move that the Convention resolve itself into a committee of the Whole, to consider this report.

The motion was not seconded.

Mr. BOLLES. I do not feel disposed to urge anything untasteful upon the Convention. I wish to vote for this report, with the exception of the first section; and if the Convention compells me to vote upon the report as a whole, I shall have to vote against it. I cannot vote for the first provision of the bill. If the question is pressed to its final passage now, I shall be compelled to call for the yeas and nays.

Mr. COLBURN. Before the report is passed, I would ask the Convention to change one word in the third section. As it now stands, it provides for punishing a person for procuring or inducing another to vote illegally, while he may himself vote illegally, and escape the disability imposed by that section. I propose to amend that part of the section so that it shall read, "or of voting, or indu- "cing any person to vote illegally, &c."

Mr. MORGAN. I think we are going too far in this section, either way. It provides that every person who procures another person to vote illegally shall be disfranchised. I have no doubt that at every election that thing is done, and innocently done. This is rather a sweeping piece of legislation. If it is in order, I would move to strike out the whole section.

Mr. COLBURN. When this report was under consideration in committee of the Whole, the attention of the committee was almost wholly directed to another clause of the report, and this was passed over without much consideration. For the purpose of having an opportunity to re-arrange this section, I would move that the Convention resolve itself into a committee of the Whole to take into consideration this section of the report.

Mr. BOLLES. I hope the motion will include the entire report.

Mr. COLBURN. I limited the extent of my motion from the fact that that part of the report which the gentleman from Rice desires to re-consider, has been thoroughly considered and discussed, and I am satisfied that there is no general desire to interfere with the disposition which has been made of that section. It is well known that my views correspond with those of the gentleman from Rice county, but I am not disposed to re-open that question now.

The motion was agreed to.

The Convention accordingly resolved itself into a committee of the Whole, (Mr. BARTHOLOMEW in the Chair,) and took up for consideration the third section of the report, on the Elective Franchise.

The section was read as follows:

"SEC. 3. No person shall be qualified to vote at any election who shall be convicted of treason —or any felony—or of voting, or attempting to vote, more than once at any election—or of procuring or inducing any person to vote illegally at any election; *Provided*, That the Governor or the Legislature may restore any such person to civil rights."

Mr. MORGAN. I move to strike out the whole section. I believe it is unusual, in this connection, to introduce such a section as this. I have never seen it in any other Constitution, and it certainly is a very sweeping piece of legislation, and a matter wholly within the province of the Legislature. This provision is certainly a very stringent one, and difficult of application, and in many cases would work great hardship.

The motion was not agreed to.

Mr. BUTLER. I move to amend by striking out the word "procuring," and inserting "voting."

The amendment was agreed to.

Mr. BALCOMBE. I move to strike out all after the word "felony."

Mr. COLBURN. I object to that, for the reason that it would cut off the power of the Legislature to restore civil rights to any person who may be convicted of violating the provisions of this section.

Mr. MORGAN. A pardon always restores a person to his legal civil rights.

Mr. COLBURN. That is usually the case

under the laws of the various States; but where there is a Constitutional provision, that no person shall vote at any election who shall have been convicted of a particular offence, it is not in the power of the Legislature or Governor to restore him.

Mr. MORGAN. The object of the gentleman from Fillmore can be attained by moving to strike out all after "felony," and before "provided."

Mr. BILLINGS. I move to amend the amendment, by striking out the word "any," in the second line, and all after the word "felony," down to the word "provided."

The amendment to the amendment was agreed to, and then the amendment as amended was adopted.

On motion of Mr. HARDING, the committee rose and reported to the Convention the report and amendments, with a recommendation that the amendments be concurred in.

The amendments reported by the committee were severally concurred in.

The question then recurred upon the passage of the report.

Mr. BILLINGS. Mr. PRESIDENT: I do not rise to offer any apology for the vote I shall give upon the final passage of this report. The amendment offered in committee of the Whole, by the gentleman from Rice county, (Mr. NORTH,) which proposed to strike out the word "white," in section one, met my cordial approval, and would have received my support at that time, had I not been confined to my room by severe indisposition. A large majority of this Convention, however, refused to concur in the amendment, consequently the original report of the committee has come down to us unamended, and we are now asked to give it a finishing stroke, and adopt it as a part of our Constitution—the supreme law of the land. I have hitherto had the pleasure of acting with the majority of this body upon most questions of importance, which have come before us; and in doing so, I am happy to say my pleasure and my duty, have been united.

I am not, I trust, so self-confident or so egotistical, as to reject without due and careful consideration the arguments of honorable gentlemen who favor the passage of this report. Yet while I admire their eloquence, and cheerfully accord to them that superiority of intellect eminently their due, I must, with becoming deference, say, that in my judgment the article as it now stands with the word "white" retained, is anti-American, anti-Republican, and unfit to be placed in the Constitution of a people who are or deserve to be free.

I know not what may be the final action of this Convention, but judging from the past, I fear that a large majority of this body are in favor of the report, but I will not believe it until the last vote is taken. I am not prepared to believe that of the fifty-nine gentlemen present—Minnesotians by adoption and by profession, Republicans, also, of 1857, who have before this altar called upon Heaven to witness the sincerity of their intentions, and have sworn faithfully to discharge the duties upon which they have entered—a respectable number will be found finally, who are willing to crush out the only feature in our Constitution that marks the age in which we live, and with it destroy the hopes of Freedom in our beloved Territory; who are willing to disregard the claims of humanity and justice; who are willing to help blast the hopes of our colored population, whose hands are upraised to them for protection. I say, Mr. PRESIDENT, that I cannot believe a respectable number will finally be found ready and willing to enter upon such unholy work without reasonable precedent or apology. I blush for men when I confess that the history of the past proves that Freedom receives, and has received, the cruellest stabs in the house of her pretended friends.

It is said "Negro Suffrage" is not a plank in the National Republican Platform. Admit it. But does it follow that what would be an impracticable plank in a national platform of party principles, is an impracticable plank in a State platform of a party. By no means. When the Republican party in our our sister State (Wisconsin) inserted as a plank in its platform, "that the Fugitive Slave Law shall not be enforced in Wisconsin," did it inquire, or was it its business to inquire, whether this had been incorporated in the national platform of the party? Of course not. Refusing to catch fugitive slaves might not be considered orthodox Republicanism by a majority of the delegates to a National Convention, but it was and is a

proper subject to be considered upon, either for or against, by any State Convention, and the action of such Convention would be orthodox Republicanism in and for said State. Precisely so is it with this universal suffrage question. It is no argument against it, that party platforms have hitherto been lacking in such a plank. Properly the question should be met here and now. We are organizing a State, the first one organized since the formation of the Republican Party. It is understood that our party in this Convention is in the ascendant. Our preaching has been heretofore, "Let us carry out the doctrines of "the Fathers of the Republic as they are "promulgated in the Declaration of Rights," and now when the opportunity comes to us shall not our preaching and our practice correspond? Policy or expediency has nothing to do with the question. It is simply this: Shall we play "artful dodges," or act like men. The first course may perchance win us a doubtful victory, the last will preserve for us at least, what is better, our own self-respect. Disguise it as you may, under the sham garb of party policy, the fact is nevertheless significant and plain, that by this word "white" inserted where it is by a Republican Convention, it is admitted by them that the Bill of Rights, which precedes it, is simply "*bosh*," hifaluten, put there as a preface to our Constitution, to show posterity that we, like others, have learned to be Janus-faced—to pretend to a goodness we have not, and whose chiefest motive of action is not principle, but—spoils. I am opposed to the whole thing. Let us, as a party, free ourselves from such just and merited imputations, by making a Constitution, in this respect at least, in accordance with the genius of Christianity and humanity.

Mr. NORTH. I move that there be a call of the Convention, before the vote is taken.

The motion was not agreed to.

The question was then taken and resulted, yeas twenty-six, nays seven, as follows:

Yeas—Messrs. Anderson, Bartholomew, Colburn, Coe, Cederstam, Duley, Eschlie, Gerrish, Hall, Harding, Hanson, King, Kemp, Lyle, Morgan, Mills, North, Phelps, Perkins, Peckham, Robbins, Sheldon, Thompson, Vaughn, Watson and Mr. President.—26,

Nays—Messrs. Billings, Bolles, Butler, Cleghorn, Hayden, Holley and Messer.—7.

So the report was passed.

Pending the call—

Mr. BOLLES said:—Before I cast my vote I desire to make a simple explanation. Consulting my own sense of justice and right in this matter, I shall have to vote in the negative on the final passage of this report. It will be remembered that upon the final vote upon the action of the committee of the whole on this subject, I was unavoidably absent on account of sickness, and therefore had not an opportunity to express my sentiments upon the subject;—sentiments which are entertained in common by my constituents and myself. My convictions are, that we, as a Convention, have made a sad mistake in incorporating the word "white" into this first article, and acting under that conviction, I consider it my duty to myself and my constituents to record my vote in the negative upon this final vote, and I accordingly vote "No!"

Mr. ROBBINS said:—I voted "aye" with the understanding that I have the pledge of the Convention that the final decision upon the word "white" shall be left to the people.

Mr. NORTH. I voted with the same understanding that the gentleman from Olmsted (Mr. ROBBINS) did, upon this subject, and I suppose it is taken for granted that the consent of this Convention is unanimous in submitting the question of retaining the word "white" to the people.

Mr. COLBURN. I would state that I vote in the affirmative for the reason that the question of striking out the word "white" has once been fully discussed and decided by the Convention; and for the further reason that it is to be submitted to the people as a separate proposition. My views upon the matter have been given before, and I do not desire to make any factious opposition to a thing of this kind, after it has once been disposed of.

On motion of Mr. BUTLER, Report number thirteen, on Impeachment and Removal from Office was taken up, read a third time and passed.

And then on motion of Mr. MORGAN, the Convention took a recess until half-past two o'clock,

AFTERNOON SESSION.

The Convention re-assembled at half-past two o'clock.

The roll being called, no quorum answered to their names. Other members subsequently coming in,

The PRESIDENT announced that there was a quorum present.

On motion of Mr. COLBURN, the Convention resolved itself into a committee of the Whole (Mr. WATSON in the Chair) to take into consideration report number twenty-four on the Schedule, and after some time spent therein, the committee rose and reported the same back to the Convention with a recommendation that the same be concurred in.

Mr. KING moved that the rules be so far suspended as to allow the report to be read a third time and put upon its passage.

The motion was agreed to.

The question being on the final passage of the report—

Mr. HARDING moved that the same be laid upon the table.

The motion was not agreed to.

And then, on motion of Mr. HARDING, the Convention adjourned.

THIRTY-SIXTH DAY.

SATURDAY, August 22d, 1857.

The Convention met at nine o'clock, A. M.

The Journal of yesterday was read and approved.

On motion of Mr. KING, the Convention resolved itself into a committee of the Whole, (Mr. KING in the Chair), to take into consideration Report No. 25, "on Miscellaneous Provisions."

(For Report, see proceedings of August 20th.)

The Report was read by Sections for amendment and consideration.

"SEC. 2. All persons residing upon Indian lands within any county in this State, or persons residing in any unorganized county, and qualified to exercise the right of suffrage under this Constitution, shall be entitled to vote at the polls which may be nearest their residence, for United States, State, or County Officers; *Provided*, That no person shall vote for county officers out of the county in which he resides."

Mr. MORGAN moved to strike out section two.

Mr. COLBURN. I hope it will not be stricken out. There are a great many persons living in our Territory for whom no other provision is made for voting.

Mr. MORGAN. We have provided in the article upon the Right of Suffrage that persons must reside ten days within their respective precincts before they shall be entitled to vote. This provision that persons living in unorganized counties may vote in organized counties, is exceedingly loose. The number of persons this provision would cover is exceedingly small. Every organized county will have voting precincts all over them, so that no person will be deprived of voting in such counties, while in unorganized counties, precincts may be found.

Another thing; the section provides that such persons shall not vote for county officers out of the county in which they reside, while it does not prohibit them from voting for members of the Legislature out of the legislative district in which they reside. There is as much necessity for prohibition in the one case as in the other.

The motion to strike out was not agreed to.

Mr. BOLLES moved to amend by adding after the word "provided" the words "that "this shall not interfere with any other provis- "ions of this Constitution."

Mr. MORGAN. That would be a singular provision, and would seem to indicate that we did not know what we had provided for in the Constitution.

Mr. BOLLES. It is true that I do not know fully what provisions are in the article referred to a short time since, by the gentleman from Hennepin, (Mr. MORGAN), from the fact that I have not been able to get hold of a copy of that report. But I withdraw my amendment for the present.

Mr. MORGAN. I move to amend by adding to the section the words "or for mem- "bers of the Legislature out of the legislative "district in which he resides."

Mr. SECOMBE. I move to amend the amendment, by adding thereto, "Nor for "Judges of the Supreme or Circuit Court out "of the district or circuit in which he may re- "side."

Mr. MORGAN accepted the amendment.

Mr. BALCOMBE. I do not see the necessity for the amendments, nor do I see the ne-

cessity for inserting a section of this character in the Constitution at all. All the territory within the proposed limits of the State is included within some county, and there will be precincts organized in those counties, and voters will have the privilege of voting for State officers anywhere within the limits of the proposed State, and for Representatives and Senators anywhere within the representative and senatorial districts in which that portion of the Territory in which they reside is included, without any provision of this character, and whether he happen to reside on an Indian reservation or not.

Mr. DULEY. I am decidedly in favor of striking out the section, and I move to reconsider the vote by which the Convention refused to strike it out.

The CHAIRMAN. The motion is out of order, as there is already a motion before the Committee.

The amendment to the amendment was not agreed to, and the amendment was disagreed to.

"SEC. 3. The Legislature may declare the cases in which any office shall be deemed vacant, and also the manner of filling the vacancy where no provision is made for that purpose in this Constitution."

Mr. MORGAN. I move to strike out that section.

The motion was agreed to.

"SEC. 4. No person convicted of any infamous crime, in any court, within the United States, and no person being a defaulter to the United States or to this State, or to any county or town therein, or to any state or territory within the United States, shall be eligible to any office of trust, profit or honor in this State."

Mr. MORGAN. I move to strike out that section.

Mr. CLEGHORN. I hope not, for I think it is of great importance that we should have honest men in office in this Territory.

Mr. MORGAN. Persons have sometimes been convicted of infamous crimes when they have been wholly innocent, and the community have become satisfied that they were innocent. Now under this provision such persons could not hold office in our State.

As regards defaulters, the question of being such or not, is generally a mooted question. Persons are sometimes charged with being defaulters where it is only a matter of dispute as to the allowance of their accounts. This is so in nine cases out of ten where persons are charged with being defaulters. Under such a state of facts this provision is exceedingly loose. I think the matter should be left entirely with the Legislature.

Mr. CLEGHORN. If the gentleman will read the section he will see that a person must be convicted in court of crime, or of being a defaulter, before he becomes disqualified.

The motion was not agreed to.

"SEC. 6. No contract of marriage, if otherwise duly made shall be invalidated for want of conformity to requirements of any religious sect."

Mr. MORGAN. I move to strike out section sixth. The section is wholly unnecessary. Marriage has been decided by all the courts of this country, to be a civil contract, and has no dependence upon the religious forms of any sect whatever. Any person authorized to perform the ceremony of marriage may perform it in any manner he chooses.

The motion was agreed to.

"SEC. 7. No perpetuities shall be allowed except for eleemosynary purposes.

Mr. COLBURN. I move to strike out that section.

The motion was agreed to.

"SEC. 10. An accurate and detailed statement of the receipts and expenditures of the public money, the several amounts paid, to whom, and on what account, shall from time to time be published as shall be prescribed by law."

Mr. PECKHAM. I move to strike out that section.

The motion was agreed to.

"SEC. 11. There may be established in the Secretary of State's office, a bureau of statistics, under such regulations as may be prescribed by law.

Mr. MORGAN. I move to strike out that section. It gives no authority to the Legislature beyond what they would possess under the Constitution in any event, and it may be found very convenient to establish a bureau in some other department than that of Secretary of State, and therefore it should be left to the Legislature. It simply says the Legislature "may establish," while the Legislature has the power to establish, without this provision.

Mr. PERKINS. I think the word "may"

would be construed to mean "shall." If so, we better leave it discretionary with the Legislature, and strike out the section.

The motion to strike out was agreed to.

"SEC. 12. If this Constitution shall be ratified by the people, the State Election Commissioners shall forthwith, after having ascertained the fact, issue writs of election to the several County Election Commissioners of the several counties of this State for the election of all the officers the time of whose election is fixed by this Constitution, and it shall be the duty of said County Election Commissioners to give at least twenty days notice of the time and place of said election, in the manner now prescribed by law."

Mr. PERKINS. I move to strike out that section. I do not think anything of that kind should be found in this place. It should be in the Schedule.

Mr. CLEGHORN. There is nothing of this kind in the schedule.

Mr. PERKINS. It certainly should be in the Schedule, for the provision is exhausted after the first election, and there will be no use for it after that.

Mr. MORGAN. There is another difficulty. The last clause says, "it shall be the duty of "said County Election Commissioners to give "at least twenty days notice of the time and "place of said election, in the manner now "prescribed by law." Now the manner prescribed by law is that the Register of Deeds and Judges of Probates shall issue writs of election. Those officers in all the counties might not be willing to perform that duty.

The motion to strike out was lost.

"SEC. 13. No navigable stream in this State shall be either bridged or damed without authority from the board of Supervisors of the proper county under the provisions of law. No such law shall prejudice the right of individuals to the free navigation of such streams, or preclude the State from the further improvement of the navigation of such stream."

Mr. MORGAN. It seems to me that that section is entirely unnecessary. The ground is covered by the first section of the article upon Public Property.

Mr. CLEGHORN. I move to amend by inserting between the words "of" and "Supervisors" the words "County Commissioners or."

The amendment was agreed to.

Mr. MORGAN. I move to strike out the whole section. I do not think it should be left to the Supervisors or Commissioners of one county to determine what should be determined by the whole State.

The motion was agreed to.

"SEC. 14. Whenever the office of United States Senator shall become vacant from any cause, either by expiration of term, death, resignation or otherwise, it shall be the duty of the Governor, or person administering the government, to notify the Legislature at their first session thereafter, and on the first day thereof. And on the third day thereafter the members of the Senate shall assemble in the Hall of Representatives in joint Convention, the President of the Senate acting as presiding officer thereof, and they shall proceed to fill said vacancy or vacancies, and the person having a majority of all the ballots cast at said election shall be declared duly elected."

Mr. MORGAN. I would inquire of the committee whether, under this section, the Legislature would have the power to elect a Senator after the third day?

Mr. CLEGHORN. I would say that we drew up this report somewhat in a hurry. We were aware that something of this kind was required in the Constitution, and if it needs amendments, I hope they will be made.

Mr. BALCOMBE. There are some difficulties in the election of United States Senators which I should like to see obviated, but I cannot think of any way of meeting those exigencies by an article in the Constitution. According to the provisions of the Constitution of the United States whenever a vacancy occurs, the Governor is to appoint to fill the vacancy until the Legislature fills it. You cannot fix now upon any time when the Legislature shall fill it, because you do not know when the Legislature will be organized and ready. If you fix upon a particular day, the Legislature may not be then organized, and the day having passed by, the Legislature would not, under this article, have the power to elect a senator during that session.

I move to strike out the section.

The motion was agreed to.

Mr. HAYDEN. Some provision similar to the one which has just been stricken out, should be incorporated in this report, and in order that it may be referred back to the committee for the purpose of framing such an article, I move that the committee rise and report back the report to the Convention.

Mr. COLBURN. I do not know whether a provision can be framed to meet all the ex-

igencies of the case. In many States the matter is left where the Constitution of the United States leaves it. Most of the States leave it with the Legislatures to prescribe the manner in which senators shall be elected, whether by joint Convention, or by the concurrence of the two Houses separately. I think it would be difficult to frame an article to meet all the difficulties which gentlemen would like to obviate. Under the Constitution of the United States, it would seem that while the Governor has power to appoint a person to fill a vacancy until the meeting of the Legislature, yet if the Legislature should fail to elect a United States Senator, the power of the Governor then ceases. The Constitution makes no provision for an appointment after the meeting of the Legislature. We might incorporate some provision in our Constitution giving the Governor power to appoint if the Legislature should fail to fill the vacancy at its next session, because the Constitution of the United States does not prohibit us from making a provision of that kind.

I have no particular objection to recommitting the report to the committee, but I have great doubts as to the propriety of putting into the Constitution, a clause prescribing the precise manner in which, and the time when, United States Senators shall be elected.

Mr. MORGAN. The Constitution of the United States does not confer upon the Governor the power to appoint longer than till the next session of the Legislature, nor do I think that the Legislature of any State can confer upon him such power. Had they that power, I think it would have been exercised before this time. I think if we should insert any such clause in our organic law, it would be deemed an infringement of the Constitution of the United States.

Mr. COLBURN. I am aware that that is a controverted point, and one upon which able men have differed.

The motion that the committee rise was not agreed to.

"SEC. 15. There shall be elected in each judicial circuit at the time of the election of the Judge of said circuit, two Regents of the University, whose term of office shall be the same as that of such Judge. The Regents thus elected shall constitute the Board of Regents of the University of Minnesota. The Regents of the University, and their successors in office shall continue to constitute the body corporate, known by the name and title of 'the Regents of the University of Minnesota.'"

Mr. MORGAN. I move to strike out that section. When this matter of the University was last before the Convention, I believe it was understood that the whole matter was to be left to the Legislature. There is now, under the Territorial law, a Board of twelve Regents, part of whom hold office one year, part two years, and part three years. This section provides that they shall hold office six years. The Regents are now chosen by the legislature—four of them at every session. The legislature is the better body for choosing officers of this kind, and it is desirable that the office should be kept out of the political arena. If chosen in the judicial circuits, the matter will be mixed up with politics, and I do not think as good selections will be made in that way.

Mr. BALCOMBE. I hope the section will not be stricken out. I am in favor of the election of the Regents of the University by the people, in preference to the Legislature. In the first place, when they are elected by the Legislature, as a general rule, they have been elected from those residing at the seat of government, or within a few miles around the seat of government. Now this is a matter in which all portions of the Territory are, and should be as much interested as that portion immediately around St. Paul, or immediately around the institution itself. Notwithstanding the fact that more than half the population of this Territory lies south of St. Paul, there is but one Regent out of twelve who resides south of this city. I think the control of the University fund should be put into the hands of all portions of the Territory alike.

I think the gentleman is mistaken as to the time for which the Regents are elected. I believe they are all elected for a six years term. This section then, does not change the term of office, but only the mode of their election. I think the mode proposed is fair and reasonable. I think that those who would be nominated by the Convention would be quite as well qualified as those elected by some lobbying Legislature. Lobby influence has heretofore had much to do with this matter, in the same way as in the election of other officers.

Mr. MORGAN. As my motion was made partly out of respect to the present Board of Regents, I withdraw it.

Mr. SECOMBE. I move to amend the section by adding thereto the words "and "the said University of Minnesota is hereby "declared to be the State University."

Mr. BALCOMBE. That is but a repetition of the terms which immediately precede this amendment.

Mr. SECOMBE. I think not. There has been no provision whatever in the Constitution for a University. Here is a section which the Committee have refused to strike out, which proposes to alter the present plan of electing the Regents of the University of Minnesota, which, as it exists at present, is the University of the Territory of Minnesota. If it is thought desirable that this Convention should introduce a section providing for the election of the Regents of the University and changing the plan that has already been provided by the Territory, it seems to me it is proper that it should be provided that that University shall be the State University of Minnesota. The Convention should either do that or let it alone entirely.

The University of Minnesota, as it exists under the act of incorporation, is an institution under the name and style of the "University of Minnesota," and whenever that term is used, it means that identical institution, and no other. The University of Minnesota is an existence at this time, and whenever those words are used, that particular corporation is meant. Now it is proposed by this section that the Constitution shall make a change in the particular arrangement of that institution.

Mr. BALCOMBE. Merely in the election of officers, and no other.

Mr. SECOMBE. A very material change in the regulations of that institution. Now I ask what this Convention, or this Constitution has to do with that institution, unless it proposes to adopt it, as the State institution? If they do not propose to do that, they have no right to meddle or interfere with it in the least. They have no more right to do it than any body of men in the streets. If they, however, adopt that institution as the State University of Minnesota, they have the right to do so, and to provide the regulations heretofore existing, or additional regulations. I do not think it peculiarly desirable to make this change in the manner of electing Regents, but I do not object to it provided this Convention adopt that institution as the State Institution of Minnesota.

Mr. COLBURN. I am opposed to this section entirely. I am opposed to it, first, because the subject was once thoroughly discussed, and we agreed to leave it exactly where the Territorial Legislature and the Enabling Act have left it, and I am in favor of adhering to that decision. I am opposed to it, in the second place, on account of the manner in which it is proposed to elect these Regents. They are to be elected in each judicial circuit, at the same time and for the same term, as the judges of those circuits. Then we have the whole number of Regents elected at the same time; commencing their offices at the same time; and their offices expiring at the same time. If elected by the people, I desire to have them classified so as to have a part of their offices expire every two years. But I prefer to leave the whole matter where we once before determined to leave it.

Mr. FOLSOM. I am very much in favor of the permanent location of that institution. If we are going to take any legislative action into our hands, I am in favor of giving it a permanent location. I offer a substitute for the section as follows:

"The first Legislature of the State of Minnesota shall make provision by law for the permanent location of the University of Minnesota—and the government of the same."

Mr. BALCOMBE. Mr. CHAIRMAN: I am sorry to see a disposition to go back again into this discussion. I hope the gentlemen will withdraw their amendments. We have discussed the subject sufficiently, and it has been decided, and decided too, against my ideas of propriety.

The CHAIRMAN. Perhaps the gentleman had better hear the amendments read before he proceeds.

The section as proposed to be amended was read through by the CHAIRMAN.

Mr. BALCOMBE. The same subject matter, Mr. CHAIRMAN, has been once voted down by this body. It has been thoroughly discussed, and the Convention have decided against the insertion of such an article in our

Constitution; and I cannot see any reason now for bringing up the discussion again upon this section, which merely provides for the election of the Regents of the University by the people—that all the people shall have the control of the University fund, instead of a few persons near the Capitol. I think this is a matter in which all the people of the Territory are interested, and should have a voice; and, as I said before, under the present system of appointment of the Regents, heretofore there has been one region of the Territory that has had comparatively no voice in it. More than half the people of this Territory live south of the city of St. Paul, and there has yet been only one of these twelve Regents selected residing in that south half; the balance have resided in, and within a few miles around this city.

This question, sir, has nothing to do with the location of the Institution, nor with any grant of land which has been made to it; but it is a proposition simply providing for the election of the Regents of the State University. There is no necessity for using the word "State" in order to make it the State University. It becomes so as a matter of course; still I have no objection to using the word, and it could be inserted in the fifth line, before the word "Minnesota." But I find this same thing in the Constitution of the State of Michigan, providing for the election of the Regents of their University; and they did not think it expedient to put in the word "State." I will read the provision:

"SECTION 6. There shall be elected in each Judicial Circuit, at the same time of the election of the Judge of such circuit, a Regent of the University, whose term of office shall be the same as that of such Judge. The Regents thus elected shall constitute the Board of Regents of the University of Michigan."

Their University became the State University, as a matter of course. But, as I said before, I have no objection to the use of the word. It will not have any bearing, one way or another, on either the grant of land or the location, by prejudicing the location of the Institution, or producing any effect whatever on any future grant of land. It merely provides for the election of the Regents, in the same manner that we have provided for the election of Judges and other State officers.

As I said before, sir, I am anxious to have this section adopted, although it will throw me out of the Regency. It is a good element in the Constitution—it is a guarantee for the security of the University fund, provided for by giving the control of it to the people. Let the whole people of the Territory have a voice in this matter, and not merely that portion of the people who may reside in the vicinity of the seat of government. Let us have some voice in this matter in southern Minnesota. Let us have an equal chance in the management of the affairs of this Institution, in which we all feel an equal interest.

Mr. SECOMBE. Mr. CHAIRMAN: I am surprised that the gentleman from Winona should seem to complain that this discussion has been forced upon the Convention by the friends of the present location of the University. This report was made by those who never voted for the present location; and it proposes in this Constitution to take away from the University certain rights which the Institution should possess under the State government. Here is a proposition, that this Convention shall change the manner of electing the Regents, and at the same time refuse to recognize the Institution as the State University and recipient of the land grants of Congress. I repeat, sir, this section was not brought forward by the friends of the University; on the other hand, the motion was made by my friend and colleague, the gentleman from Hennepin [Mr. MORGAN] to strike it out.

The gentleman from Winona says he is in favor of the section, although it will throw him out of office. But now, sir, I deny that this Convention have any right to throw him out office. They can have nothing to do with the Institution, nor with its officers, unless they make it the child of their adoption. If they recognize and establish it as the University of the State of Minnesota, they then acquire a control over it, but not otherwise. They may pass as many sections as they please, but unless they will invest the Institution with those certain privileges which it is in their power to do, they had as well let it alone. And what I ask is, that they should let it alone, or do justice by it, and establish it as the University of Minnesota, and the beneficiency of the grants of lands to it, as such.

Mr. BALCOMBE. Mr. CHAIRMAN: I have charged it upon him, and I do now again charge it upon the gentleman from St. Anthony, that he exhibits an undue sensitiveness upon this subject, which involves an interest not exclusively his own—not exclusively represented here by himself and his friends. The moment a section is reported here for the election of the Regents, they have to open the whole subject about the recognition of the University as a State Institution. I say again, sir, this section has nothing to do with these questions at all, they have no connection whatever with the election of Regents, and the gentleman forces their consideration upon the Convention, in order to arouse feeling. There is really no occasion for sensitiveness—nor need for any gentleman to be afraid of this section; for it will neither confirm the location, nor recognize the Institution as a State Institution. And on the other hand, there is no reason for gentlemen on the other side to fear, that it will recognize the Institution as the State University, and establish its location.

It is simply a provision, that the people shall hereafter elect the Regents of the University. What objection can gentlemen have to this? I can see no other ground of fear than this: that, if the Regents were elected by the people, the immediate locality which the gentleman represents may not get quite as large a representation in the Board of Regents as they now have. That is the only reason which I can perceive for the gentleman's opposition; and I think now the only object in introducing his amendment, is simply to secure somebody on the other side, and induce them to vote against the section, for fear it may confirm the location of the University at St. Anthony.

Mr. SECOMBE. Mr. CHAIRMAN: the gentleman from Winona has presented a very singular argument. He says he is in favor of the election of the Regents by the people of the several judicial circuits, so that southern Minnesota, which contains two-thirds of the population of the State, may be justly represented in the Board—thereby imparting to the people of southern Minnesota the weakness, or the misfortune of sending men to the Legislature, heretofore without the ability or the will, to resist the blandishments and briberies of the people of St. Anthony!—men coming here, representing two-thirds of the people, and bartering and trifling with their interests in this way!

Mr. BILLINGS (interrupting.) Mr. CHAIRMAN: I rise to a question of order. I would inquire whether the gentleman has a right to speak more than twice on the same subject.

The CHAIRMAN. The rule does not apply in committee of the Whole.

Mr. SECOMBE (resuming.) When gentlemen find that they can not get me down under the rule, I hope they will keep their seats. It was but the other day, that gentlemen on the opposite side of this question, in this same spirit, exercised this privilege against me, and refused to allow me even to read a proposition for information. But we are now in committee of the Whole, and they will have to wait for their snap-judgment till some other occasions offers.

As I have said before, sir, I am not opposed to the election of these Regents by the people; although I do not think it the best way. I think the manner of their election as at present provided by law, is better; and, as gentlemen may not know what the law is, I will read it. It is in the Revised Statutes, section five, chapter twenty-eight:

"The members of the Board of Regents shall be elected at the present session of the Legislature and shall be divided into classes numbers one, two and three. Class number one shall hold their office for two years; class number two for four years; and class number three, for six years from the first Monday of February 1851; biennially thereafter there shall be elected in joint Convention of both branches of the Legislature four members to supply the vacancies made by the provisions of this section, and who shall hold their office for six years respectively."

Now, the proposed section does not change the term of the office at all. They hold for six years now. But it is proposed to change the manner of their election; to take it from the joint Convention of both branches of the Legislature, and give it to the six Judicial Circuits. There are, at present, according to the judiciary article, six Judicial Circuits, which would give twice that number of Regents. But then we have a proposition to increase the Circuits to twelve; and in that event we would have twenty-four Regents. Therefore the section is not merely a proposition to change the manner of the election of the Regents, but to change their number also.

Still, I do not object, if the Convention will put themselves into a position upon this subject, that will give them a right to meddle in the affairs of the University. If the Convention will come forward, as I think it would be very proper and right for them to do, and declare that the present University shall be adopted as the State University, then they will have an undoubted right to impose any reasonable and proper change upon the University, and the Institution will be bound to accept it.

This, Mr. CHAIRMAN, is what I contend for; and I will say again, that I cannot but think the people of Southern Minnesota will not be very thankful to the gentleman for the imputation, that they have been sending incompetent and unworthy men here to represent their rights in the Legislature.

Mr. FOLSOM. Mr. CHAIRMAN: I should not have introduced my amendment, but for my desire to secure the donations of land to the University. I am in favor, for one, of securing for it the most ample endowment, and making it an institution of the very first class. I have consulted no one in what I have done. I repeat, that I am in favor of some permanent location of the institution. I do not desire the recurrence of these useless discussions and agitations of the question of removal. We want this institution built upon a firm basis, which cannot be moved; and if our friends in Southern Minnesota will protect and cherish it, and take care of its interests better than they of the centre, I am perfectly willing to go with them for its location there, and for its permanent location; so as to have done with all this strife about its removal from St. Anthony to Hastings, Waseca, Winona, or wheresoever. I want the thing permanent and fixed —never subject to removal for the accommodation of local interests, as the seat of government of the State of Iowa has been for the last several years. I am in favor, also, of the election of the Regents by the people; and still more democratic, I would be in favor of allowing the Legislature to pass the laws on that subject. But I am decidedly in favor of some provision being adopted by this Convention, which shall secure the most permanent location of the institution.

Mr. BALCOMBE. Mr. CHAIRMAN: It is well known to every member of this Convention, that when that question was before us, I was in favor of the present location of the University—of putting an article into the Constitution which would locate the institution permanently at St. Anthony, and so putting it out of the reach of legislation. I believed that was right and best, and I voted accordingly; but a majority of the Convention believed and voted otherwise. I advocated the proposition for tying up the University at St. Anthony; and the same proposition which the gentleman from St. Anthony has offered now, was offered then as an amendment, and voted down—

Mr. SECOMBE. I think not, Mr. CHAIRMAN; no amendment has been brought forward for such a purpose.

Mr. BALCOMBE. If my recollection serves me aright, there was an amendment referring the location to the first Legislature. I may be mistaken.

Mr. FOLSOM. It was talked of.

Mr. BALCOMBE. Very well; be that as it may; I now say, as a matter of course, I am opposed to any further agitation of the subject here, especially under the circumstances—having but a limited time, and much need of harmony—I think it would be very unwise to continue this discussion. In fact, I have been opposed to its discussion at any time, since the disposition was manifested to leave the matter to go over to future legislation. Then let us not embarrass the subject. Let them have full sweep; and let us all have an opportunity there.

Mr. PECKHAM. Mr. CHAIRMAN: Is it in order now to offer an amendment?

The CHAIRMAN. The Chair will receive it.

Mr. PECKHAM. I submit the following, by way of substitute for the fifteenth section and amendments:

"There shall be a Board of Public Instruction, for the control of the University of Minnesota, and for the general supervision of the public schools of the State. There shall be elected in each judicial circuit at the time of the election of the Judge of said circuit, two members of the said Board of Public Instruction, whose term of office shall be the same as that of such Judge. The Superintendent of Public Instruction shall be ex-officio a member of the Board of Public Instruction, and shall be Secretary of said Board."

It seems to me, Mr. CHAIRMAN, as a very important thing, that the University and the school fund should be, as far as possible, under the control of one Board of Public Instruction; and that we should have a system of instruction for the State extending from the common schools up to the University; and the design of the amendment is, to have but one Board, and that they shall have the whole matter under their general supervision. It is not my desire at this time to go into any argument.

The substitute was rejected.

The question was then taken on Mr. FOLSOM's amendment, and it was also rejected.

The question now being upon the adoption of Mr. SECOMBE's amendment—

Mr. MANTOR. Mr. CHAIRMAN: I propose the following amendment to the amendment:

Add these words: "And the said Uni-" versity shall be established at Mantorville, "in Dodge county." (Laughter.)

The amendment to the amendment was rejected; and the question recurring again on the adoption of Mr. SECOMBE's amendment, it was also rejected.

On motion of Mr. KEMP, the committee now rose, and the Chairman reported the amendments to the Convention, with a recommendation that the same do pass.

On motion of Mr. COLBURN, the Convention took a recess till half-past two o'clock.

AFTERNOON SESSION.

The Convention assembled at half past two o'clock, and thereupon adjourned until Monday, the 24th inst.

THIRTY-SEVENTH DAY.

MONDAY, August 24, 1857.

The Convention met at nine o'clock, A. M.

Prayer by the Chaplain, Rev. E. D. NEILL.

The journal of yesterday was read and approved.

MISCELLANEOUS PROVISIONS.

Under the order of unfinished business the Convention took up for consideration Report No. 25, on Miscellaneous Provisions, the question being on concurring in the amendments made by the Committee of the Whole.

The several amendments recommended by the committee of the Whole were concurred in, except the fourth amendment to strike out section ten, which was non-concurred in.

Mr. LYLE. As the amendments recommended by the committee are disposed of, I offer the following additional section—.

"Institutions for the benefit of those inhabitants who are deaf, dumb, blind or insane shall always be fostered and sustained by legislative enactments."

I think it very important that some provision should be made for the benefit of those afflicted inhabitants of our incoming State.

Mr. COLBURN. The amendment is indefinite. "Shall be fostered and sustained" are words capable of great latitude of construction.

The amendment was agreed to.

Mr. BUTLER offered the following additional section—

"The powers of the government of Minnesota shall be divided into three separate departments, the Legislative, Executive and Judicial; and no person charged with the exercise of powers properly belonging to one of those departments, shall exercise any function appertaining to either of the others, except in such cases as are directed or permitted by this Constitution."

The amendment was agreed to.

Mr. KING offered the following additional section—

"At the same time this Constitution is submitted to the people for their adoption or rejection a separate proposition shall be submitted upon the same ballot to the electors of this State for adoption or rejection in manner following, viz:—"Free suffrage; Yes:" "Free suffrage; No:" and if, at said election the number of ballots cast in favor of said proposition shall be a majority of all votes cast on that subject, then all restrictions on the right of suffrage in regard to color shall be stricken from the Constitution."

Mr. HAYDEN. As there seems to be many amendments offered to this report, I move that the Convention resolve itself into committee of the Whole to take under consideration this report.

Mr. KING. I see no necessity for such a course. We have just come out of committee, and disposed of its recommendations, and we can dispose of this amendment just as well in Convention as in committee.

The motion was agreed to.

The Convention accordingly resolved itself into committee of the Whole, (Mr. DULEY in

the Chair), and assumed the consideration of the report upon Miscellaneous Provisions.

Mr. KING offered his amendment as an additional section.

Mr. CLEGHORN. I move to amend the amendment by striking out the words "free suffrage," wherever they occur and inserting in their place the words "shall the word 'white' be stricken out," and by striking out all after the word "subject" and inserting "then the word 'white' shall be stricken out of the article upon the Elective Franchise."

Mr. HAYDEN offered the following substitute for the additional section and amendment—

"SEC. —. At the same election that this Constitution is submitted to the people for its adoption or rejection, a proposition to amend the same by striking out the word "white" from the article—section one, on the "Right of Suffrage," shall be separately submitted to the electors of this State for adoption or rejection in manner following: A separate ballot may be given by every person having a right to vote at said election to be deposited in a separate box; and those given for the adoption of such proposition shall have the words: "Shall the word 'white' be stricken out of the article—section one, on the Right of Suffrage? Yes." And those given against the proposition shall have the words: "Shall the word 'white' be stricken out of article—section one, on the Right of Suffrage? No." And if, at said election, the number of ballots cast in favor of said proposition shall be a majority of all those cast on that subject, the said word "white" shall be stricken from said article and be no part thereof."

The substitute was adopted.

Mr. COLBURN. My colleague, Mr. BUTLER, offered this morning an additional section, which was drawn up in haste, and needs a slight modification. It was as follows:—

"SEC. —. The powers of the government of the State of Minnesota shall be divided into three separate departments—the Legislative, the Executive and the Judicial; and no person charged with exercising powers properly belonging to one of these departments shall exercise any of the functions belonging to either of the other departments, except in such cases as are directed or permitted by this Constitution."

Now all State officers must belong to one or the other of those departments, and Justices of the Peace, Notary Publics, and Militia Officers, would, under that section, be excluded from holding a seat in the Legislature. I do not believe that such was the intention of the Convention. As that section is now a part of this report, I move to strike out al after the word "Judicial."

The amendment was agreed to.

Mr. FOLSOM. Section fourteen of this report, in reference to filling vacancies in the U. S. Senate, has been striken out. I think it all important that our Constitution should mske some provision for filling such vacancies. I offer the following additional section—

"SEC. 7. Whenever the office of United States Senator shall become vacant from any cause, it shall be the duty of the Governor, or person administering the government, to notify the Legislature at their first session thereafter, and on the first day after permanent organization of both branches thereof, the members of the Senate shall assemble in the Hall of Representatives in joint convention, the President of the Senate acting as presiding officer thereof, and they shall proceed to fill said vacancy or vacancies, and may adjourn from day to day until said vacancy or vacancies shall be filled; and the person having a majority of all the ballots cast at said election shall be declared duly elected."

The amendment was agreed to.

On motion of Mr. CLEGHORN, the committee then rose and reported the report and amendments to the Convention with a recommendation that the amendments be concurred in.

The question being on the first amendment recommended by the committee—

Mr. KING said:—The amendment offered in the committee by the gentleman from Hennepin (Mr. HAYDEN) and now under consideration, does not suit my views. The section is too complicated to suit my views, and to answer the objects intended. I propose to offer as a substitute, my amendment modified as follows:

SEC. —. At the same time that this Constitution shall be submitted to the people for their adoption or rejection, a separate proposition shall be submitted upon the same ballot to the electors of the State for adoption or rejection, in manner following, viz: "Shall the word 'white' be striken out." Those voting in the affirmative shall write or print the word 'Yes;' those voting in the negative, the word 'No'; and if at said election, the number of ballots cast in favor of said proposition shall be a majority of all the votes cast on that subject, the said word 'white' shall be striken from said article and be no part thereof.

The substitute was rejected.

The amendment recommended by the committee of the Whole was then concurred in.

The next amendment recommended by the committee was to strike out all after the word "Judicial" in the section, dividing the powers of the government into three departments.

The amendment was concurred in.

The next amendment was the additional section in regard to filling vacancies in the United States Senate.

Mr. COLBURN. I move to amend that amendment, by adding after the word "Senate" the words "and members of the House of Representatives."

The amendment was agreed to.

The question being on concurring in the section as amended—

Mr. GERRISH moved a call of the Convention, which was not agreed to.

The additional section as amended was then concured in.

Mr. PECKHAM moved to amend the fifteenth section of the Report, relating to the election of Regents of the University, by inserting after the word "Minnesota," where it first occurs, the words "The Superintendent of Public Instruction shall be *ex-officio* a member of said Board."

The amendment was rejected.

The report was then ordered to be engrossed for a third reading.

On motion of Mr. HARDING the convention took a recess until half past two o'clock.

AFTERNOON SESSION.

The Convention was called to order pursuant to adjournment, and on motion of Mr. WATSON immediately adjourned.

THIRTY-EIGHTH DAY.

TUESDAY, August 25th, 1857.

The Convention met at nine o'clock, A. M.

The Journal of yesterday was read and approved.

Mr. MANTOR, from the committee on Engrossment reported back Report number twenty-five, on Miscellaneous Provisions, as correctly engrossed.

Mr. LYLE offered the following resolution:

"*Resolved*, That this Convention adjourn on Thursday the 27th inst., without day."

Mr. NORTH. I hope the resolution will not be adopted. We would all like to finish our labors on Thursday if we can, but it is impossible to say whether we can do so or not, and it would be useless to pass a resolution which we do not know that we can carry out.

The PRESIDENT. The resolution, giving rise to debate, will lay over under the rules.

Mr. MANTOR moved to suspend the rules so far as to allow the consideration of the resolution at this time.

The motion was not agreed to, and the resolution was laid over.

Mr. KING moved to take up Report number twenty-five upon Miscellaneous Provisions, and put it upon its third reading and final passage.

Mr. CLEGHORN. The committee on Miscellaneous Provisions have other matters to report, and I think it better to let this report remain as it is until the committee report finally.

Mr. KING withdrew his motion.

Mr. BILLINGS offered the following resolution:

"*Resolved*, That the committee on Arrangement and Phraseology is hereby rsquested to report back such articles to this Convention as they have considered."

Mr. MORGAN. My impression is that the committee on Arrangement and Phraseology cannot report article by article. The object of that committee is to arrange the articles in the proper order in which they should stand.

The resolution was not agreed to.

On motion of Mr. KING, the Convention took a recess until half past two o'clock.

AFTERNOON SESSION.

The Convention was called to order at half past two o'clock.

On motion of Mr. SECOMBE, the Convention took a recess until five o'clock.

The Convention was called to order at five o'clock, and on motion of Mr. NORTH, adjourned.

THIRTY-NINTH DAY.

WEDNESDAY, August 26th, 1857.

The Convention met at nine o'clock A. M.

The journal of yesterday was read and approved.

FINAL ADJOURNMENT.

The resolution of Mr. LYLE, offered yester-

day, in reference to the final adjournment of the Convention, coming up under the regular order of business—

Mr. HARDING moved to lay the same upon the table.

The motion was agreed to.

Mr. HAYDEN. I would enquire of the Chair whether all the reports have been passed and referred to the committee upon Arrangement and Phraseology?

The PRESIDENT. There are half-a-dozen reports yet unacted on.

Mr. HAYDEN. It seems to me that they should be immediately passed and referred to that committee. They will require some consideration after that committee reports upon them.

On motion of Mr. COLBURN, the Convention took a recess until half-past ten o'clock, A. M.

At the expiration of the recess, the PRESIDENT resumed the Chair.

ASSAULT ON MR. WILSON.

Mr. GALBRAITH, chairman of the committee of Conference, made the following report, which was accepted and ordered to be entered upon the journal, viz:

"The Conference Committee would respectfully report that on yesterday, (August twenty-fifth) while in session of the joint committee, Ex-Gov. WILLIS A. GORMAN, chairman of the committee, appointed by the Convention holding its session in the Council Chamber of this Capitol, committed a violent assault upon THOMAS WILSON, a member of this committee.

Your committee therefore respectfully request instructions from this Convention as to their future course of action in view of the events that have transpired. THOS. J. GALBRAITH,
Chairman.

To the Constitutional Convention.

Mr. GERRISH offered the following preamble and resolutions:

"WHEREAS, It appears by the report just received, that WILLIS A. GORMAN, chairman of the committee appointed by the Convention sitting in the other end of the Capitol, to confer with a committee appointed by this Convention, did, on the twenty-fifth instant, while the committees were in session, commit a violent assault, without any just cause or provocation, upon THOMAS WILSON, Esq., a member of the commiitee appointed by this Convention; therefore,

"*Resolved*, That the committee of this Convention be requested to hold no further conference with the aforesaid committee, so long as WILLIS A. GORMAN continues to be a member thereof.

Mr. HARDING. I move that the rules be so far suspended as to allow the resolution to be considered now.

The motion was agreed to.

Mr. GALBRAITH. I have a word to say, and only a word. The committee does not report that the assault was without just cause or provocation. We cannot do that without putting upon the records the grounds upon which we base such a conclusion. I cannot consent that a resolution pronouncing a conviction, shall go upon the journal, without having the evidence upon which it is founded, publicly expressed upon the journals of the Convention also. We have reported only that such an occurrence took place, and it is now for the Convention to take action upon it, and to make the record right so that we can show to the world the evidence upon which we based our accusation. This is merely a report to base the action of the Convention upon. At present the facts are not stated. The Convention have not the facts before them, and before this resolution is passed, I ask that the facts be ascertained and placed upon the record. I do not want the Convention to act upon what they have heard outside.

Mr. MANTOR. I move that this matter be made the special order for this afternoon at half-past two o'clock.

Mr. STANNARD. I would submit to the Convention the propriety of that course, as a part of the committee of Conference are now in the Secretary's office, waiting for the part of the committee from this body. The probability is that all the subject matters before that committee can be disposed of, one way or another, in the course of two hours, and if anything is to be done about this assault, it should be done at once.

Mr. MANTOR. I withdraw my motion.

Mr. ROBBINS. The gentleman from Chisago says that a part of the committee are now waiting in the Secretary's office for the committee from this body. I would ask the gentleman what committee they expect from this body? Have they the impudence to believe that this body is going to send the same man down there who was so brutally assaulted yesterday? Do they believe we are so lost to our self-respect that we can treat with them while all their members still

continue upon it? So long as I am a member of this body, my sanction cannot be had for such a course. As I have said before, I am ready for any compromise which can be made consistently with our self-respect, but I can do nothing towards furthering the action of that committee, while WILLIS A. GORMAN is a member of it. We have had it reported by our Conference committee that WILLIS A. GORMAN did commit an outragrous assault, and we know it is without provocation. Shall we send Mr. WILSON down there again to meet WILLIS A. GORMAN? I am not one of those who choose to conciliate any adverse party by placing myself in a groveling position. So long as I can maintain what I think to be a right, I am ready to make compromises. I am not willing to go any lower. I am as low as I can go, and I will not send down another committee from this body while GORMAN is a member of that committee.

I like the resolution, but I think it can be improved. I offer the following substitute for the preamble of the resolution:

"WHEREAS, By the report of the committee of the Conference, just received by this Convention, it appears that a gross personal assault was made by WILLIS A. GORMAN, a member of the committee of Conference appointed on the part of the Convention sitting in the Council Chamber of this Capitol, upon THOMAS WILSON, a member of the said committee, appointed on the part of this Convention, during the session of the said committee, and yesterday; therefore"

Mr. STANNARD. In cases of this kind we are liable to be excited, and I am disposed to keep very cool. I am in favor of disposing of this matter, now, and against postponing it, for the reason that if this committee of Conference is to be continued, it ought to be determined by this Convention now, so that they can finish their labors to day.

Mr. FOSTER moved to amend by striking out all after the preamble, and inserting the following:

"*Resolved*, That the committee of this Convention be instructed to notify the committee of the other body, that they cannot meet with them so long as WILLIS A. GORMAN shall participate in the proceedings of the committee."

The PRESIDENT. The question must be first put on the substitute for the preamble.

Mr. COLBURN. I am opposed to this last substitute. If there was a gross personal assault, and there was any justifiable excuse for it, then we ought not to refuse to confer with the committee in consequence of that assault. If it was not justifiable, then our position is correct. Now I say nothing will justify such an assault, unless a similar assault was committed first upon Mr. GORMAN, compelling him to put himself upon the defence. I say no words would justify it, therefore I am prepared to say, as a member of this Convention, that the assault was without a justifiable cause. Hence I am opposed to the preamble and substitute.

Mr. GALBRAITH. The report is before the Convention, and all I ask of the Convention is to use the language of the report. We have reported the naked fact that a violent assault was committed, without qualifying terms at all. Whether there should be qualifying terms, is a matter to be decided upon investigation. It does not appear by our report that there should be, though, as an individual, I am ready to say there was no cause for the assault. But it does not appear in our report that that is so, and we did not wish to put it in our report. We wished simply to state the offence. That was plain enough to any man. If the Convention calls upon us to report the facts of the case, we will do so; but there is now nothing upon the record but the simple fact of the assault committed, and the Convention is called upon, by the resolution, to vote upon a matter of which there is, as yet, no record. We have not reported testimony in the case. The members of the committee are ready to give their testimony, if called upon by the Convention. But all we ask of the Convention is now that the Convention should act upon the simple fact of the assault.

Mr. ROBBINS. I thought when I offered the substitute, that it was in the exact language of the report of the gentleman who has just taken his seat. I intended that it should be so, and if the gentleman will suggest such alteration as he desires, I will accept it.

Mr. GALBRAITH. I desire that the language of the report should be used.

Mr. SECOMBE. The language of the report is, "violent assault," and the language of the substitute is, "gross personal assault." There is hardly difference enough to make a distinction.

By general consent the words "violent assault" were substituted for "gross personal assault."

The substitute for the preamble of the resolution was then adopted.

The question then recurred upon the substitute for the resolution, offered by Mr. FOSTER.

Mr. SECOMBE. I hope the amendment will not prevail. The resolution, as it was originally offered, provides that the committee appointed upon the part of this Convention, will hold no further conference with the committee appointed upon the part of the Convention sitting in the Council Chamber, so long as WILLIS A. GORMAN "remains a member of the committee," while the amendment offered by the gentleman from Dakota county uses the language "participates in the proceedings of the committee."

Now I understand that this is part of a plan or system, which has been got up, by which Messrs. WILSON and GORMAN shall, by common consent, retire themselves from the committee, and the other four members upon each side, shall go on and complete the labors of the committee. For one, I protest against any such action. I wish this Convention to take the ground that they will hold no further conference so long as the offending member is a member of that committee. I desire that this Convention shall put the matter in such a position that the other Convention will be bound to show their hand upon this matter, and take a position either to justify the action of the member of their committee alluded to, or to repudiate it, and put that disclaimer upon the record in full and bold terms. I wish, as a member of this Convention, to know whether the Convention sitting in the other end of the Capitol do countenance that action or not. I wish to know whether they admit it as a part of the policy which they wish to inaugurate in the coming campaign. If they do not so desire, I would like to have them come out and disclaim all connection with it, as a Convention. Now the proposition offered by the gentleman from Dakota county, allows WILLIS A. GORMAN to withdraw from the meetings of the committee to attend to his own private affairs, to skulk out of the way of the retributive hands of justice, and to relieve the Convention sitting in the other end of the Capitol from the responsibility of passing upon the question. I hope, therefore, the amendment will not prevail, but that the original resolution will pass, and that this Convention will offer the alternative to the other Convention, either boldly to adopt the policy of their dictator, or to disclaim it.

Mr. ROBBINS. The gentleman from Hennepin has explained what was meant by the proposition which has been introduced by the gentleman from Dakota, which renders it unnecessary to do what I was about to do—ask the gentleman from Dakota if, in covering up this thing he wished to pass something through this Convention, which members of this Convention, if not the Convention itself, would not vote for, if the motive was apparent.

Mr. FOSTER. I think the gentleman from Olmsted ought to hesitate when he imputes to others, motives different from those which appear upon the face of things. I am one of those who condemn the outrage which has been committed, as gross, unprovoked, and quite characteristic of the man who perpetrated it, but we may differ as to the best course of policy to pursue. We were sent here to frame a Constitution, not for ourselves, but for the people. We were sent here to inaugurate a government for the benefit of the whole people, and to take care that the career of prosperity upon which Minnesota has thus far proceeded, shall not be checked, and that anarchy shall not prevail; that two governments shall not be instituted with two full sets of officers, contending for the supremacy in our State. I am for pursuing a policy which shall prevent such a state of things, because it will certainly bring ruin upon our Territory. So long as the course pursued by the members of the other Convention forced upon us the alternative of making two distinct Constitutions, and submitting them to people, I was willing to do so, because I knew that we were right, and there was no other course before us. They would be responsible for the result. But a compromise was proposed and we have proceeded so far in it, that the committee of compromise have agreed upon an apportionment for representation, an arrangement of the judiciary, and upon the same set of officers, and there now remains but one other point to arrange, and that is the mode of submitting the Constitution to

the people. Having proceeded thus far, I am unwilling, on account of angry or party feeling, to close the door against finishing and completing this compromise. Therefore it is, that I offer the resolution that the committee, if this man shall not appear and participate in their deliberation, may proceed to finish the work confided to them.

As to what the gentleman across the way (Mr. SECOMBE,) said, as to not allowing Mr. WILSON to participate in their proceedings, I do not know of any such arrangement, though if he should retire, it would be nothing more than what has been done heretofore. It has been a common practice in the committee. I have been informed, if one member was absent, for some member upon the opposite side not to participate in the deliberations of the committee. Three members upon each side would be sufficient to go on and complete their labors. I hope that gentlemen will look at this matter in the proper light, and see to it, that we substantially accomplish all that we ought to do, and, while we direct our committee not to associate with that man, yet will authorize them, in his absence, to go and accomplish the work before them.

Mr. NORTH. I hope we shall not spend much time in discussing this matter. I believe the substitute offered by the gentleman from Dakota meets the views and wishes, so far as I can learn, of the men who are best acquainted with all the facts, and for that reason I shall vote for it, and hope it will prevail.

Mr. ROBBINS. The gentleman answered my question simply by requesting me not to impute wrong motives to any member who might offer an amendment to the resolution. I did not do so. I asked the gentleman a simple, plain, straight forward question. I now understand his design to be to allow GORMAN to remain on the committee, without participating in its doings. I consider that would be an insult to myself and to this Convention. Though I would like to vote with my friend upon my right, I cannot do so. There is something in this beyond mere party policy. We came here to frame a Constitution for all—Republicans and Democrats. We came here, and have acted all along in a strictly parliamentary manner. We took possession of this Hall; we have kept possession of it; we organized, and we committed no outrage. We had a majority of legally elected delegates to this Constitutional Convention, holding their credentials from the proper officers. Behind them we could not go. Outside pressure has forced us from the position we took. That position was a good and strong one, and we did wrong when we succumbed to outside pressure. We did wrong because it was not successful in its object. I regret that we did yield to it on that account, not that under the same circumstances I would not vote for the same thing again, for I would, as I believe what we did was intended for good.

Well, we succumbed to a minority, and appointed a committee from this body to meet a committee from that body. The people demanded it, and we yielded to that demand because it was merely a parliamentary matter. But now comes a different state of things. A member of our committee has been grossly assaulted. Now when it comes to blows, after all the sacrifices we have made, I think it is time that we should pause. Our own self-respect requires that we should stop; and our constituents require that we should stop. I do not think that a single individual of those who sent me here would bear me out in taking another forward step. I do not think they require such a compromise as that; and if they do, they must require it of somebody besides me. If they wish me to sacrifice everything—reputation, principle, honor—I cannot do it. And if the people will not sustain the action of this Convention, so far as the Convention have been right, the responsibility rests with the people, and there we ought to be content to leave it.

Mr. COLBURN. I regret that the preamble of the resolution has been changed. It met my views exactly. But that preamble having been stricken out and another adopted in its place, which, to my mind, is wrong, and presents us in a wrong light, I shall be compelled to vote for the substitute offered by the gentleman from Dakota county. This Convention has declared that no evidence has come before them to show that the assault committed by GORMAN was justifiable. Now if that assault was justifiable, why should we discontinue our intercourse with that committee? If it was not justifiable, why not as-

sert it, and not imply that it was justifiable? But as the committee have refused to say that it was not justifiable, I say pass the resolution, and let us take our own course under it.

Mr. HUDSON. I am in favor of the original resolution, and opposed to the substitute. If a member of our committee has been assaulted and insulted, every member of this Convention has been insulted. If one member of their committee has been guilty of an outrage, every member of that Convention who sustains it, is equally guilty of an outrage, and for one I am decidedly opposed to our committee having any farther negotiations with that committee, unless that Convention take action upon this matter, and remove WILLIS A. GORMAN from the committee. I think we should make that a condition of our farther acting with them, and therefore I shall vote against the substitute.

Mr. McKUNE. I hope the substitute will be voted down, as it appears to sanction a gross and violent personal assault, without any provocation whatever. A resolution should be passed which requires the removal of GORMAN from that committee, and instructing our committee to agree upon no compromise until that is done.

Mr. SECOMBE. I desire to say, in explanation of some remarks made by the gentleman from Dakota, (Mr. FOSTER,) what I did not say at first, and what I should not have said at all, if that gentleman had not denied any knowledge of the plan I spoke of. I stated, when I spoke before, that this resolution was offered in accordanee with a plan that the two members of the committee of Conference who were more particularly connected with this matter should leave the committee, and that the other four, upon each side, should go on with the business before the committee. As the gentleman denies any knowledge of sueh plan, I ask the privilege of stating that amongst others, I conversed with that gentleman this morning, and proposed the plan that has been offered to the Convention; that he opposed it and proposed the plan which he has embodied in his substitute—that four members of the committee upon each side should go on and finish up the business before the committee. It is also a part of the plan whieh has been followed out from the very eommencement of our proceedings for a eompromise. When the thing was first talked of, we must not say anything about it, but wait a little while and see if something new would not turn up. Gentlemen, enough has turned up already; and among the things which are going to turn up in the future, I hope it will not be that this Convention will disgraee itself by holding communion with that committee while Ex-Governor GORMAN is upon it.

I ask for the yeas and nays upon the substitute.

Mr. GALBRAITH. I move that there be a call of the Convention.

The motion was agreed to, and the roll heing ealled the following members failed to answer to their names:

Messrs. AYER, COGGSWELL, DAVIS, FOLSOM, KEMP, LYLE, LOWE, MANTOR, MCCANN, MESSER, PERKINS, PUTNAM, SHELDON, and SMITH.

On motion of Mr. SECOMBE, all further proceedings under the call were dispensed with.

And then the Convention took a reeess until half-past two o'clock.

AFTERNOON SESSION.

The Convention met at half-past two o'clock.

The PRESIDENT announced as the unfinished business of the morning session, the resolution in reference to the assault on Mr. WILSON, the immediate question being on the substitute for the resolution, offered by Mr. FOSTER.

Mr. CLEGHORN. Not having the evidence necessary to enable us to vote intelligently on that resolution, I move that the preamble, resolution and substitute be laid on the table.

Mr. SECOMBE called for the yeas and nays, but they were refused.

The motion was then agreed to.

REPORTS PASSED.

On motion of Mr. MANTOR, report number three, on Publie Property, was taken up, read a third time and passed.

On motion of Mr. MANTOR, report number four, on Boundaries, was taken up, read a third time and passed.

Mr. SECOMBE moved that the Convention adjourn.

Mr. NORTH remarked in opposition, and by unanimous consent, that he had just been informed that the Conference Committee were perhaps nearly ready to report their agreement upon one Constitution, and he thought it incumbent upon members to wait for their report.

The motion however, prevailed, and,

The Convention adjourned until to-morrow morning at nine o'clock.

FORTIETH DAY.

THURSDAY, August 27, 1857.

The Convention met at nine o'clock A. M.

The journal of yesterday was read and approved.

PRINTING OF THE PROCEEDINGS AND DEBATES.

Mr. COLBURN submitted the following:

Resolved, That the President of this Convention be directed to contract for the purchase of two thousand copies of the debates and proceedings of this Convention, as taken by the official reporter, including the Organic Act of this Territory, the Enabling Act of Congress, and the act of the Territorial Legislature passed in pursuance thereof, the Constitution and an abstract of the vote of the people thereon, with a full and complete index; the same to be furnished in good substantial binding, subject to the order of the President, on or before the first day of January, 1858, at a price not exceeding that allowed the Territorial Printer by law, for executing work of like character, to be paid as a part of the expenses of this Convention.

Resolved, That five copies of said Debates and Proceedings be furnished to each of the members and officers of this Convention and that the copies remaining be deposited in the Library of the Territory or future State.

Mr. COLBURN said: There is now some prospect that we shall agree upon one Constitution, and that only one will be submitted to the people. In that event I presume that the expenses of this Convention in full will be recognized and paid eventually by the general government. It is very desirable that the reports of our debates and proceedings should be published, and it appears to me that it should be left in such a manner as to allow the PRESIDENT of this Convention or some other person, and I think the PRESIDENT is as suitable person as any one—to contract for the printing of these reports to the best advantage. It is not known, in fact, whether the printing can be done in St. Paul. I propose to leave it so that the printing may be done in the best possible manner, without specifying how it shall be done.

The PRESIDENT. The resolution will lay over under the rule one day.

Mr. COLBURN. I move to suspend the rules so as to allow the resolution to be considered now.

Mr. MORGAN. I am inclined to think that the resolution had better lie over for the reason that the committee of Conference may agree upon some mode in which these debates and proceedings may be published.

The question was taken, and the rules were suspended, (two-thirds voting in favor thereof.)

Mr. COLBURN. I will modify my resolution by substituting the word "authorized" for "directed" in the second line.

Mr. BILLINGS. I am in favor of the resolution, but would prefer that the remaining copies should be deposited with the Register of Deeds in the several counties in proportion to their representation in the House of Representatives. They would thereby become more generally distributed in the Territory.

Mr. COLBURN. I see serious objections to such a course. These debates are to be printed, not only for us, but for the benefit of future generations, and if they should be deposited in the several counties now organized, counties hereafter formed will not be provided for. I think they should be deposited in the State Department, that the Legislature should provide by law for their distribution, and for the sale of the remaining copies.

Mr. ROBBINS. I would suggest another amendment to the resolution. Instead of two thousand, I would have three thousand copies published, and I would give eight copies to each member instead of five. It is well known that the edition of the Revised Statutes published, was not large enough to supply the wants of the people. There are none now on hand, even for the officers of the Territory. It is also well known that the members of this Convention will have to supply a number of individuals with copies of these reports, and five copies are not enough to answer their purposes. At any rate, eight copies will go farther.

Mr. COLBURN. Five copies will be as many as my modesty will allow me to ask.

Mr. ROBBINS. I do not ask them for myself.

Mr. COLBURN. I have no objection to increasing the number of copies, if it is desirable.

Mr. MANTOR. I think that the future generations, which the gentleman talks about, will read sufficient of our 'debates in two thousand volumes, and I think new counties will find no difficulty in obtaining sufficient knowledge of the proceedings of this Convention. I am in favor of having two thousand copies published, and of giving to each member one or five copies, just as the Convention thinks best. I am not willing to spend too much money in publishing the reports of this Convention, but I am not opposed to spending a reasonable sum.

Mr. PERKINS. I think we ought to have a large number of volumes of our debates published, especially if the committee of Conference succeed in agreeing upon one Constitution. Four-fifths of that Constitution, I understand, will consist of the Constitution framed in the other chamber. That being the case the debates in this Hall will be so instructive to future generations, and throw such a flood of illumination upon the Constitution that they ought to be printed. It seems to me that ten, fifteen, or twenty thousand copies will be an insufficient number. And I hope gentlemen will not be so modest as to restrict themselves to five or even eight copies. Each member here will have three times that number of grand children, among whom he will want to distribute these debates. [Laughter.]

Mr. MORGAN. I am inclined to diminish rather than to increase the number, because if the committee of Conference agree upon a Constitution, our debates will have but little reference to the articles actually in the Constitution. The chief object in publishing debates and proceedings is to learn from them the reasons for the different articles of the Constitution—the reasons and arguments adduced by members of the Convention in favor of, or against this or that particular provision. We may find some very good reasoning in our debates, but it will have no application to the provisions of the Constitution which we shall actually have. For that reason I think that the smallest number we can get along with will be best.

Mr. HUDSON. I think it important to have as many copies of our debates published as modesty will allow us to ask for, for if we do not, future generations will not mistrust that the body which made the Constitution which we shall probably adopt, was a Republican body. I think that we ought to have published reports to show that there was a Republican body here.

Mr. ROBBINS. I move that the resolution be laid upon the the table.

The motion was agreed to.

Mr. DAVIS moved that the Convention take a recess until half-past two o'clock, which motion was not agreed to.

Mr. DAVIS moved that the Convention adjourn, which motion was lost.

PERSONAL EXPLANATION.

Mr. WILSON. Mr. PRESIDENT: I wish, sir, the indulgence of this Convention while I make a few remarks that will be brief, this morning; and at some future time before the Convention shall adjourn finally, I may, perhaps, desire to be heard more at length on the subject. It is a subject that probably concerns myself much more than this Convention, or any member thereof, besides myself. I refer to the difficulty between Ex-Governor GORMAN, of the other wing of the Capitol, and myself, which took place in the committee room.

As the Convention well know, I had the honor to be appointed to serve as one of the committee of Conference, to meet a like committee from the west wing of the Capitol, which committee was appointed, if possible, to consider and arrange matters of difference between the two Conventions, so that one Constitution should be submitted to the people. I can say, sir, for one, that as a member of the committee appointed on the part of this Convention, I felt that the business committed to us was all important to the best interests of the Territory; and I can say that my colleagues, the members of the committee on our part, each and every one of them, worked assiduously to bring about the object of their appointment. I think I shall be sus-

tained, when I say here that I, as one of that committee, worked all the time for that end, and that only.

On the twenty-fifth instant the occurrence took place, which has prevented my being in that committee room since. It was a personal assault on me by Ex-Governor GORMAN. The facts in the case I wish to state now; and I shall state them as they exist, and not to correspond with the distorted shape in which they have appeared under the hand of somebody on the opposite side.

I see, sir, in the *Pioneer and Democrat*, of yesterday morning, a statement purporting to be facts in this case, but which are real falsehoods, which I have no doubt were indited by Ex-Governor GORMAN himself, for no one else could hardly have used such license of language. This paper says:

"Mr. WILSON, throughout the sessions of the committee, has exhibited the most ultra partisan spirit, and manifested a disposition, by the use of ungentlemanly language, and ascribing motives to members of an almost criminal character, to provoke a personal collision. Yesterday, in a discussion with Judge SHERBURNE, he made use of language very insulting in its character. Upon an explanation being demanded, he withdrew the language so far as the Judge was concerned, but stated that it remained applicable to other Democratic members of the joint committee. Mr. KINGSBURY demanded the withdrawal of the language as applicable to him; the demand was conceded."

Now, sir, there were two points before the committee upon which I was more strenuous than any other member of the committee, and but two points. One of these points was with reference to our judicial system; and I believe few will censure the position I took; for the very point of difference which was made against me in the committee has been since changed, as I am credibly informed, to my views by the Democrats themselves. Their own Convention having taken up these points of mine and adopted them of their own accord, the public can judge from this fact whether I was right or wrong.

The other point was to the districting of the State for Congressmen. The position which I took here, I insisted upon strenuously. But I never heard any person take exception the language I used in urging my views. I was in earnest, certainly—nothing more; and when any one will say I was insulting, they willfully falsify. It is well known that our State reaches from the British Possessions on the North, to the Iowa line. It is well known that the northern part of the State has interests diverse from the southern part. It is also well known that, in these two divisions of the State we are divided in feeling as well as interest; and that, therefore, each portion of the State would prefer to choose its own Congressmen; and that the people of these divisions of the State would be most likely to be pleased with such an apportionment. I insisted upon this course very earnestly, as my colleagues know. But I was voted down in the committee; and then I gave it up, and had nothing further to say.

These two are the only points upon which I insisted, that our committee did not go with me as far as I went. If censure fall upon any other measure adopted, it must rest with them as well as with me. Every man on our part acted openly and ingenuously, upon every question. I dare any Democrat to open the record of that committee, and show that we have not, from first to last, each one of us, acted the open and manly part. Our committee, sir, have done their duty. We insisted that they should lay down every feeling and prejudice as members of a party, and act for the common good; and no one can show anything from our proceedings like a departure from that rule on our part.

The committee had found out, before the day this encounter took place, that we could not agree upon one Constitution, and they were working with a view to the submission of two Constitutions on the same day, in such a manner that the electoral officers might not come into conflict. There was a proposition made by a member of the Democratic side, and insisted on by Ex-Governor GORMAN, that there should be three different ballots and no more. So that by one you might vote for the Republican Constitution, by the second you might vote for the Democratic Constitution, and by the third you might vote against both Constitutions. These were the only three ballots or classes of ballots to be allowed by the proposition. It was further stated in the same resolution, that every vote cast for the Democratic Constitution should be considered and counted as cast against the Republican Constitution, and that every vote

cast for the Republican Constitution should be considered and counted as cast against the Democratic Constitution. This imposition was objected to—I believe by myself—at any rate by some member of our committee, that that mode of counting the votes was one which would, almost to a certainty result in the defeat of both Constitutions, from the fact, that the number of votes cast against both Constitutions, together with the number of votes cast for any one, would to a moral certainty be far greater than the number of votes cast in favor of either Constitution—thereby making almost certain that both would be rejected. This objection was too apparent to be resisted. It was too apparent to be supported by even Governor GORMAN, though I doubt not he approved of it tacitly, for he does many things which do not pass for his in the public journals—and in keeping with his course; for it has been most evident throughout, that his sole object was to break up the conference without agreeing on one Constitution, and set us out before the world with two Constitutions in this stormy manner. Ex-Governor GORMAN knows that when the means of excitement fail him, he dies politically. He knows that every honest, thinking man, of each party despises him as he does the devil; and that his only strength consists in keeping up a public turmoil, and keeping away from the people any special knowledge of his individual merit.

It was then proposed by Ex-Governor GORMAN that every vote cast in favor of either Constitution should be considered as a vote cast in favor of a State government; and this was seconded by one of their committtee. When this was insisted upon, I remarked that I thought that was worse still; for by it, it seemed, we were to come into the Union with a State government organized under a Constitution which had received the approval of but a minority of the voters of the State. It was an inconsistent, self-contradictory proposition, and we could have no right to authorize any such thing. The general government would take no notice of a Constitution that had received only the votes of a minority. But the Ex-Governor ever pretending to be thoroughly versed in Parliamentary usages, called for the previous question in the committee.

Judge SHERBURNE coming into the room a few minutes afterward, I stated to him, that my position was this: that every voter should be permitted to vote, singly, for or against the Republican Constitution, and for or against the Democratic Constitution; and that by no possible construction should any vote be considered and taken to mean what the voter never intended it should mean. I made a few other remarks which I do not now recollect. We then adjourned till after dinner.

As to the lie alleged by the Ex-Governor to have been given to himself in the forenoon—I would certainly remember the fact had I made such remark, and I here unhesitatingly say there was no such thing said, imputed or thought by me. Nothing of the kind. I do not believe his own friends will support his allegation. I feel assured that every man of our committee (though I have not spoken to one of them on the subject,) will bear me out in this statement so far as they know, and it must have been said in their presence if at all. But such statements may be expected from a man who has been considered and branded by his own party leaders in this city, *as a liar*—a man whom, if the statements of his own party be true, infamy itself could not but flatter.

But to the point. When our committee met again in the afternoon, the Ex-Governor fell back on his dignity, and declared that his party had done everything that they could do, that they had originated everything and we had merely torn down. Now he considered their personal dignity required, that they should make no more propositions. Mr. KINGSBURY had made a proposition that morning, and he appealed to him, but Mr. KINGSBURY said he would re-offer his proposition. He made the same appeal to others of his side, that any further proposition must come from our side. At this time, one or two of the committee asked me to propose a plan. I remarked, that I had proposed a plan in the morning which, I thought the only true and correct one.

Judge SHERBURNE remarked to me, using this language: "I think, Mr. WILSON, you "are drawing too refined a distinction, and "your proposition, if carried out, would be "ridiculous;" and went on to state his objection in a very candid manner, taking occasion

also to compliment my opinins, and say he meant no disrespect in saying my proposition was ridiculous. I remarked then in reply: "If you really think so, I have so much "confidence in your judgment and candor, I "shall doubt my position;" and went on to explain. I stated plainly and frankly what I thought I saw would be the result to follow the course proposed. I was not going to disguise it; it would deprive the Republicans of a large vote. The Democratic Constitution says that a certain subject should not be submitted to the people with this Constitution, for their approval or rejection; nor should the Legislature have the power of submitting it to the people at any future time.

Now, does not every man in this committee know, that one-third of the Republican party would under no circumstances vote for such a Constitution? And I stated there that I was one who never would consent that the people should be gagged on any subject. "Do not you, Judge SHERBURNE, see, that it "will cause at least a third of the Republi- "can party to refuse to vote for their own "Constitution, from the fact that here is such "a proposition that if the Democratic Consti- "tution receives more votes than the Repub- "lican Constitution, the votes for the Repub- "lican Constitution must be turned in and "counted in favor of a State government un- "der the so-called Democratic Constitution? "In effect, it tells the Republicans, that their "votes shall be counted first in favor of their "own Constitution, and secondly in favor of "the Democratic Constitution." Such was my language in substance. I told them that our party would not consent to any such thing; that it was not fair to ask it; and that there was no use to talk about it further. Judge SHERBURNE remarked, "I was not in "when the proposition was made, and I cer- "tainly misapprehended your remarks." He had said, as I stated before, that my proposition, if carried out, was certainly ridiculous. Ex-Governor GORMAN, with whom I had discussed the matter fully, in the morning, rose up from a reclining posture and said, "If you "misapprehended, Judge, there are a num- "ber in your crowd"—or words to that effect. I knew he understood me, and wished to put false construction upon it, by an insulting inuendo, that I had wilfully changed the proposition, or that the proposition was simply ridiculous. I replied, "There are some gen- "tlemen that I wish would always misunder- "stand me; I prefer to chose my own com- "panions." Those, I think, are the very words I used. As to Judge SHERBURNE feeling insulted and demanding an explanation, it is a flat lie, got up by those who retail it, whoever they may be—an unmitigated lie. Judge SHERBURNE, I am confident, will state that fact, if called upon. To him I appeal in confidence; and what man, pretending to be a man, would state, through the public journal, what his own political friends must know to be false. How much of a man is he? I made the remark I above stated, and Governor GORMAN rose up and asked me if I meant him, by that remark. I told him, "Certainly." I spoke it out flatly, with no reserve. I was sitting behind a round table, in the corner of the room. I had been sitting a few minutes before with my feet upon the table, and whether I was in that position at the moment, I do not certainly know. Those present say I was, and my recollection is that I was. He took his cane—every man knows it was a heavy cane—and struck me over the head before I could place myself in a position to defend myself. I was then in a position in which I could not defend myself in any possible way—I was struck to the floor, and as I rose and saw this man—the most consummate and the basest coward I ever saw in my life—diagonally across the room. I picked up a fragment of his cane, and finding it no use for my purpose, I seized my own, when I saw him shrinking away into the corner of the room, and crying, "don't let him strike me with that cane." He immediately left the room. Where he went I do not know—my friends could not ascertain—and, as I understand, continued in some place around the Capitol until nearly dark, and then, with two men in his buggy to guard him, went home.

Now, I state the facts, without coloring and without any exaggerated particulars, as members of that committee must know. The insult first came from Ex-Governor GORMAN —more insulting because in ambiguous phrase. As to those statements I made there, as being insulting to Governor GORMAN. I understand he said he would do the same thing

again, upon a repetition of them. I repeat them here; I repeat them to the fullest extent, and I say, when I repeat and reiterate them, that, though almost a non-resistant in practice—though I am not a quarrelsome man, though not a brave or a strong man, I hold myself personally responsible for every word I utter. Now that cowardly, miserable poltroon may take that up, but I prophecy he will not, unless he can get me in some position where I cannot defend myself, or unless there are half a dozen men to guard him from being struck "with that cane."

But this morning appears another statement in the papers. It is ridiculous to make such a statement, as every man who knows anything about it, knows to be utterly false. What he can mean, I hardly know. But perhaps I can surmise. That man is not known so well abroad, as he is here. He does not make those statements to be used in St. Paul, for he is known here. Every man knows what his reputation is in the city of St. Paul. His statements will have no effect here, one way or the other. He does not make them for this latitude. He makes them for the districts where the facts cannot go, and where he thinks his paper will be circulated. What does he say?

"They were promptly separated, and while two persons were holding Mr. GORMAN, Mr WILSON seized a large lead-headed cane and approached Mr. GORMAN, when Mr. GORMAN said—"

Now as to that, we were standing opposite to each other across the room. There were a number of men close around me to prevent me from crossing to him, and he upon the other side of the room, evidently very much alarmed for his safety, no person holding him or having a hand upon him. For all that matter, all that was necessary was to hold him from jumping out of the window. But I read further from the speech:

"When GORMAN said, 'don't hold me until he 'strikes me with that cane. If he does, I will 'make a more summary defence than I have.'"

I submit here Mr. PRESIDENT, that this thing is simply ridiculous if intended for home consumption. But it was not intended for home consumption, but to be sent abroad.—I venture the assertion here that there is not a member of that committee that will not, if you can get them to speak at all in reference to that transaction, unequivocally declare that that declaration is false. I said he cried, and cried out with pathos and feeling, "don't let him strike me with that cane"—not a word more, not a word less, and the recollection of the members of that committee agree with my own. It is false, sir; and for all the statements I make here, I am responsible—for every one of them. It is false, sir.

Thus ended the matter. Now as to the object for which that committee was appointed. I have not a particle of doubt, and not a member of this body, and, so far as I know, but very few in the other wing of the Capitol—certainly not many among the candid and honorable men of that body—have expressed a doubt but that the secret object of that gentleman has been, all through, to prevent any sort of an arrangement being made between the two Conventions. As I said before, he lives in a storm. He lives where the attention of the community is distracted and drawn from the man, to other circumstances. He knows that he can do nothing when men look calmly at the man who wishes to be sent to the United States Senate. That is understood by him.

Now as to the action of that committee. When that committee took their seats in the committee room to endeavor to arrange this matter, and to agree upon one Constitution to be submitted to the people, as the resolution under which we were appointed, declared it our duty to do, the very first word said was by W. A. GORMAN. He said:—"Gentle-"men: I know one thing; there is no use in "trying to agree upon one Constitution; we "can never do it," or words to that import.—That man goes out then into the other wing of this capitol and makes a long speech, showing that he was in favor of agreeing upon one Constitution. I say that the first words said in that committee room was that very declaration of WILLIS A. GORMAN. Our committee said they came there for that purpose, and nothing else. His own committee declared that they came there to try to accomplish that end. Upon that, seeing he was not sustained by his own committee, he sits down and says "Gentlemen, I have some knotty points I want to present." And what is the first resolution, or about the first resolution he presents? That the Constitution agreed

upon by the joint committee, shall be signed by the Hon. H. H. SIBLEY, *as President*, and by all the admitted members save some in our own body whom they declare are not legally elected. Who believes that a man, who could offer such an insulting resolution—a resolution which everybody sees, strikes at the very root of the compromise—can be otherwise than opposed to a compromise?

And when it was declared by the committee that they did not want to listen to any such thing, he goes to work to get up some other knotty point, as he calls it. I have not a particle of doubt, that if he had not been in the Convention, there never would have been a split in the Constitutional Convention. Does anybody believe otherwise? ["Nobody, nobody."] I know, too, that in the other wing of the Capitol, a similar view is entertained among their best men, and if there had been an honest man appointed instead of Gov. GORMAN, on our joint committee, who meant what he said, I have no doubt that one Constitution would have been agreed upon long ago, and I have no doubt that if he keeps away, that committee will yet agree upon one Constitution. He has been the bane of everything.

I speak what every man who belongs to the Convention knows, and for it I am responsible. I mean what I say. I say it not in passion. I say what circumstances and positive knowledge will bear me out in.

Thus went the matter. I need not make any buncombe speech in this Convention, to satisfy my colleagues here around me. I need not take the course that gentlemen took. I know the feeling of every gentleman in this Hall. I know what they think of my course. I say nothing in regard to that. I only speak of those base falsehoods which have gone out through the paper. I shall probably at some future time take up this subject and analyze it further, but at present I need say no more.

REPORTS PASSED.

On motion of Mr. KING, Report number ten on Educational Interests was taken up, read a third time and passed.

The Convention then took a recess until half-past two.

AFTERNOON SESSION.

The Convention assembled pursuant to adjournment.

EXPENSES OF THE CONVENTION.

Mr. COLBURN offered the following resolution which was adopted:

"*Resolved*, That the committee on Supplies and Expenditures be required to report to the Convention all bills and demands against the Convention; and that all persons having demands against the Convention be required to present the same to said Convention."

Mr. MANTOR submitted the following resolution, which was adopted:

"*Resolved*, That the Secretary of this Convention be allowed an extra compensation of five hundred dollars for all services which he may be required to perform by this Convention, after the adjournment; and that said sum be paid out of the funds appropriated to defray the expenses of this Convention."

And then, on motion of Mr. MURPHY, the Convention adjourned.

FORTY-FIRST DAY.

FRIDAY, August 28th, 1857.

The Convention met at nine o'clock A. M.

Prayer by the Chaplain, Rev. E. D. NEILL.

The journal of yesterday was read and approved.

REPORT OF THE COMMITTEE OF CONFERENCE.

Mr. GALBRAITH, from the Conference Committee, submitted the following paper for the first report from the joint committee:

"The committee of Conference, appointed by the two Conventions, to agree upon a single Constitution, to be submitted to the people, respectfully submit the report which is annexed. The committee also further report, that, in their opinion, they will be able to submit a final report at ten o'clock, this day.

M. SHERBURNE, *Chairman*.

L. K. STANNARD, *Sec'y*.

JOSEPH R. BROWN,
W. HOLCOMBE,
W. W. KINGSBURY,
THOS. J. GALBRAITH,
CYRUS ALDRICH,
CHARLES McCLURE."

The report annexed, included the several articles of the Constitution which appears in the Appendix, with the exception of articles, "Schedule" and "Miscellaneous Provisions," which were subsequently reported by the same committee and became a part of the first report.

The report, as a whole, was read a first and second time and referred to a committee of the Whole.

On motion of Mr. HAYDEN, the rule requiring the report to be printed, was suspended.

Mr. HAYDEN moved that the Convention resolve itself into a committee of the Whole to take into consideration the report of the committee of Conference.

Mr. COLBURN. I hope we shall not go into the committee of the Whole upon that report. We shall get along much faster by considering it in Convention. If the gentleman will withdraw his motion I will move that the rules be suspended, so far as to allow us to consider this report in Convention.

Mr. HAYDEN. I will withdraw my motion for that purpose.

Mr. COLBURN. I submit the motion to suspend the rules for the purpose indicated.

The motion was agreed to, two-thirds voting in favor thereof.

Mr. HAYDEN. I move that the rule be dispensed with which requires the engrossment of this report.

The PRESIDENT. As the Convention have dispensed with the consideration of the report in the committee of the Whole, the report is in the same condition as though it had been considered in Committee of the Whole, and been reported to the Convention. The first question is upon the engrossment of the report for a third reading.

The motion of Mr. HAYDEN was agreed to.

The question recurring on ordering the report to be read a third time—

Mr. COLBURN moved that the report be read and considered article by article.

Mr. COGGSWELL. I hope the motion will not prevail, for I understand that a motion has been adopted that this report should be considered as a whole in the Convention, instead of in committee of the Whole. Before this report is put upon its final passage, I presume I may have something to say in regard to its merits as a whole. It will consume considerable time to consider this report section by section; and not only that, but it will be embarrassing. I understand that it is before us as the report of the Conference committee, and that if it is adopted, the whole of it must be adopted, and that if it is rejected, the whole of it must be rejected. For that I desire that it should be considered as a whole.

Mr. GALBRAITH. I think the best way is to consider it as a whole—to read it article by article, that members may have an opportunity to express their views upon it as we proceed. We, as members of the committee who made the report, may be compelled to say something, but we do not desire to consume the time of the Convention unless we are called upon. We submit it as a whole report. Let it be read as such, and whenever we come to a point upon which any member wishes to say anything, I am sure no one will object to spending the time necessary to do so.

Mr. McCLURE. We have submitted this as one report. If it is amended in any manner or form, that amendment knocks the whole compromise in the head. There is no necessity of reading it section by section, or taking separate votes upon those sections, because gentlemen can, without that, just as well point out those difficulties which occur to their minds. It will also afford less opportunity for speaking, and though I want to hear my friend from Steele county (Mr. COGGSWELL,) yet if he has any objection to the report, I want to hear him object to it as a whole.

Mr. COLBURN. The only object of my motion was to expedite business. I understand that it is necessary that this Constitution shall be written out upon parchment before it is signed. Now if we pass upon the first article, it may be placed in the hands of the person employed to engross it upon parchment, while we are proceeding to the discussion and consideration of other articles. But if we discuss it as a whole that cannot be done until we get through with it.

Mr. McCLURE. Suppose you adopt all except the very last article and reject that, then the trouble and expense of writing out all the former articles is thrown away.

Mr. COLBURN. There may be some things which this Convention might request the committee to change, and which the committee might change upon request, and to the satifaction of both Conventions. We might not insist upon such changes as are ultimatum, but they might be made by mutual agreement.

Mr. GALBRAITH. The joint committee is not discharged, and if the Convention see

fit to request alteration to be made, the committee upon the part of this body, will make the change with pleasure. I would say, however, that the committee have had a labor to arrive at the result they have, and every change will involve the necessity of making every other article of the Constitution conform with the one changed. There was an alteration made in one article this morning, and it required us to make changes in three other articles. My idea is that we should deal with this report as one entire thing. If we amend one single clause, and the committee, or the other Convention disagree to it, and we hold out, we kill the whole report. We must adopt it as a whole, or reject it as a whole.

—Mr. COLBURN. I withdraw my motion.

The question again recurred on ordering the report to be read a third time.

Mr. COGGSWELL. I move that the rules limiting debate to fifteen minutes be so far suspended as to allow each member to speak upon this question as long as he thinks proper.

Mr. PERKINS. I hope the motion will not prevail. We have, most of us, been here six or seven weeks without having returned to our homes or business, and although it may be pleasant and agreeable to a man who has been home with his family for a week or fortnight, and being refreshed, has come back for another campaign, to go into the details of this matter again, and to make long speeches; yet I apprehend that it will not be a very agreeable thing to the majority of this Convention, for I am confident that a large part of this Convention are disposed to leave for home this week. I, at least, propose to leave to night, and I certainly shall if this motion prevails, and there is a prospect of our having inflicted upon us speeches running through one or two weeks. I think for the sake of having the Constitution adopted, and speedily adopted, we had better dispense with hour speeches, and at any rate, limit them to fifteen minutes. In that way we may be able to go home soon and honorably, having accomplished the work we were sent here to do.

Mr. COGGSWELL. So far as I am concerned, I have no objections to the gentleman's going home, and staying at home just as long as he sees fit and proper, just as I did. But it does seem to me that we should have some little time to canvass the merits of this report, and that those who have necessarily been absent at their homes for a few days, should be allowed some little time in which to express their views and sentiments in regard to this matter. I understood, last night, that that it was the intention of this Convention to carry this report right through under the operation of the previous question. Perhaps that may be their intention, but I wish it distinctly understood, if it is the object of this Convention to ram this report down the throats of certain members of this Convention, who do not happen to agree to certain details of it, they may possibly hear from those gentleman before the thing is finally ratified by the people. So far as I am concerned, I would like the privilege of expressing my views and sentiments in regard to it. There are some portions of it I like very well, and other portions of it I dislike very much.

In regard to accomplishing our work and going home with some little honor, I am inclined to think it is pretty late in the day to talk about going home honorably—rather late in the day to talk of having achieved an honorable work, and claiming from our conconstituents any considerable degree of credit.

Mr. GALBRAITH. No man in this Convention would be more willing than myself to allow every member to speak upon this subject. We now have a rule that a member can speak longer than fifteen minutes by the consent of the Convention. Let the Convention grant its unanimous consent, when it is asked for. I can say to the gentleman from Steele county, that the balance of this Convention know very little more about this report than he does, although he has been absent. When this report is read, one gentleman will know about as much of it as another, because it was only fairly commenced day before yesterday morning. The committee desire to gag no one. They have made the report, and it is your province to deal with it as it becomes you. We desire not to dictate in the matter. Let this motion be disposed of, and as chairman of the committee, I can state in five minutes the reasons why we made the report, and then gentlemen can make what comments they choose upon it.

Mr. HAYDEN. I should be glad to hear

gentlemen give their reasons for or against this report, and I think my friend COGGSWELL, who is somewhat gifted with the power of speech, can express his views in fifteen minutes, so that we shall know pretty conclusively where he stands. I am, therefore, opposed to the pending motion.

But I do not like to hear remarks traducing the honor of this body. I do not know what the gentleman has done himself, but I believe that a majority of this body feel that they have done the best possible thing for their constituents under the circumstances.

Mr. SECOMBE. I would move to amend the motion of the gentleman from Steele county, so as to provide that any member of the Convention may have the privilege of writing out his remarks in full and submitting them to the reporter.

Mr. McCLURE. It comes with ill-grace from the gentleman who has just taken his seat, after having occupied so much time of the Convention as he has, to try to gag any member of the Convention just at this time. Now so far as I am concerned, I coincide fully with my friend COGGSWELL. We have been discussing this matter for almost seven weeks. Our committee of Conference now report an entire Constitution, differing in a great many respects from the Constitution we had formed, as a body, and, although all are anxious to return to their homes, and none more so than myself, I want to hear every gentleman upon this floor make a speech, just as long as he pleases, upon this subject. If gentlemen who have made up their minds to vote for this report, do not think proper to say anything upon that side, let the speeches come from the other side. I apprehend, however, that few persons will want to make speeches. Some members are more peculiarly situated than others, and I hold that it is the duty of every member to place himself in that position before his constituents that he can go home and meet them, conscious of their approval. I want to hear my friend COGGSWELL. I do not think he will be tedious. He is not in the habit of making long speeches, but I am willing to listen just as long as he is willing to speak upon this subject. I am satisfied that there is something peculiar about his constituents, and that he deems it necessary, in order to place himself before his constituents as he should be placed, to give his views upon this subject. Other gentlemen may be in the same predicament. I hope by unanimous consent the Convention will suspend the rules, and give each member the privilege of being heard. It is the most important matter that has come before us since the commencement of our session.

Mr. ROBBINS called for the yeas and nays on the motion.

The yeas and nays were ordered.

The question was taken, and it was decided in the negative, yeas twenty-three, nays twenty-four, as follows:

Yeas—Messrs. Aldrich, Bolles, Cleghorn, Coggswell, Davis, Foster, Galbraith, Gerrish, Hanson, Holley, King, Kemp, Lowe, Mantor, McCann, McClure, Peckham, Robbins, Stannard, Thompson, Watson, Wilson and Mr. President.—23.

Nays—Messrs. Anderson, Baldwin, Bates, Bartholomew, Billings, Colburn, Coe, Cederstam, Coombs, Duley, Dickerson, Hall, Hayden, Harding, Lyle, Messer, Morgan, Mills, Murphy, Phelps, Peckam, Russell, Secombe and Vaughn.—24.

So the Convention refused to suspend the rules.

Mr. GALBRAITH. The committee of Conference of this body, as this Convention is well aware, have been in session with the committee from the body sitting in the other chamber of the Capitol, for some considerable length of time. It has been the object of this committee, all the time, to arrive, if possible, to one conclusion—the adoption of one Constitution—considering that object paramount to all others for which they were created. For the accomplishment of that object the committee has worked, and I am satisfied that every member of it has been, and is now, convinced that the adoption of one Constitution is paramount to all other questions, in order to avoid a prospective state of anarchy. It is too late, now, to talk about the past. The past is a matter of history. It is a matter of record. If wrong has been committed, that is no reason why we should not do right above all other things, now. Judging by the sentiment expressed by the people of this Territory, by strangers from abroad, and by this Convention, what conclusion could we come to other than that to us the duty of submitting one Constitution is paramount to all other things? This is the ground the committee took, and under Heaven, they will stand or fall by the position they have taken.

We come in and report to this Convention one Constitution, and only one, and by that Constitution this committee stand pledged now and forever. We took this ground, believing that the Convention would sustain our action; and we know, though we are neither prophets, nor sons of prophets, that but one voice will come up from the people on this subject, which is and which will be this, the making of one Constitution is a good act.

There are things in the Constitution we have reported, which no member of our committee approves; and there are also things in the Constitution adopted by this Convention, which a large minority, and perhaps majority of the body do not approve. A just and proper Constitution must express the aggregate of the views of the people. It is impossible for men of diverse views, meeting to form a Constitution in such a state of affairs as the present, to form a Constitution which shall please everybody. There were ten members of the joint committee, and no two of them sitting down together, could think alike on all subjects. For them to have come together, then, it must have been by assimilation, sacrifice, compromise. They have done the best they could under the circumstances. We have now submitted our report to the Convention. Take it and adopt it as a whole, if you can; or take the responsibility of rejecting it. We could have rejected it as members of the committee, because of objectionable features to every man from this, as well as from the other Hall. But the question for all is: Is it not as good a Constitution as we could get under the circumstances? We do not come in here to dictate and say: Gentlemen of the Convention adopt this Constitution. We do no such thing; but we submit it for your kind consideration, and if anything better can be done than to adopt it, under the circumstances, none will be better pleased than every member of your committee.

Mr. STANNARD. I voted in favor of suspending the rules. I could not do otherwise as a member of that committee. I am not disposed to have the acts of that committee forced upon this Convention in any manner, without due deliberation, although I am as anxious as any member of this Convention that the report should be adopted as it has been reported. But I am willing that gentlemen should speak upon the subject as they desire, and cut into the report though the chips might fly into my own face.

Mr. ALDRICH. As a member of the committee, I felt it my duty to vote for suspending the rules. Like the gentleman who last spoke, I am in favor of giving every gentleman an opportunity of expressing his views upon the report of the committee. There are provisions in the Constitution which we have reported, that I do not approve of, and could I have had my own way, they would not have been there. Some of them I opposed to the utmost of my ability, though other gentlemen took a different view from what I did. They were gentlemen, however, whose opinion I am bound to respect, and whose judgments are as likely to be correct, as my own. Acknowledging, however, the right of the majority of the committee to govern, I acquiesced in the action of the committee. It now remains for the Convention to approve or reject the recommendation of the committee. But I must say that I think if we do reject it, we will be assuming a responsibility larger than I am willing to assume. Gentlemen must recollect that the report of the committee is the result of compromise and concession, and concessions made upon both sides. I hope, however, gentlemen will have the opportunity of expressing themselves fully, whether they are in favor of, or opposed to the report, and whether they condemn the action of the committee, or approve of it. If the question is again taken on suspending the rules, I hope every gentleman will vote for it, though I am as anxious to complete our labors as any man upon this floor.

Mr. MURPHY. I move to reconsider the vote by which the Convention refused to suspend the rules.

The motion to reconsider was agreed to, and then the rules were suspended (two thirds voting in favor thereof.)

Mr. COGGSWELL. I desire to make a few remarks upon this matter, but I am not exactly prepared to make them until after dinner. I have some papers of reference which I find are not here.

Mr. SECOMBE. I would inquire if it will be in order, as each member is called upon to vote upon the final passage, to express his

views, giving his reasons for voting one way or the other.

Mr. FOSTER. That will occupy too much time in calling the roll.

The PRESIDENT. Common usage permits individuals, when their names are called, to make a simple explanation; that however would not allow them to make long speeches.

Mr. MANTOR. I prefer, before this report is brought to a third reading, that it should be printed and laid upon the desks of every member. I am aware however, that this is a very unpalatable idea.

The PRESIDENT. The Chair would inform the gentleman that during his absence a motion was made and adopted to dispense with the engrossment and printing of the report.

Mr. GALBRAITH. I hope we shall go on and dispose of this matter now and not postpone its consideration until afternoon. During the session of our committee, members were urging us to work all the time, and now that we have done our part, I hope the Convention will do its part.

Mr. KING. I move that the Convention take a recess until half past two o'clock.

Mr. COLBURN. I hope not. If we have anything to do I hope the Convention will go on and do it, and if we have nothing to do, that we shall adjourn without day. We have spent several days in doing nothing, and it is time we were doing something.

Mr. ROBBINS. I hope it will be carried. The most important question of the whole session is now before us, and I think we ought to take some action outside of this body before we take the report into consideration here. At any rate I think we should have a few moments to reflect upon it before we are called upon to vote.

Mr. BILLINGS. This is an important question, and if it be so, should we not discuss the subject at once? Why lose two hours on the last day of the session in idleness when this subject is legitimately before us. I voted against a suspension of the rules, believing that the courtesy of the Convention would extend the time of speaking to any gentleman, upon request. I hope we shall proceed at once.

The Convention refused to take a recess.

Mr. COGGSWELL. As I have had but very little time to consider this report, and to examine it in detail, I presume I am not as well prepared to express my views upon it as I should be, provided, I had had a longer time. But from the hurried reading I have given it, I am prepared to say that I shall vote against it, and as I seem to stand almost entirely alone in my position on this matter, judging from present appearances, I desire to state some of the reasons why I shall vote against it.

The chairman of this committee of Conference has told us that the great and paramount question now before this Convention, is the submission to the people of one Constitution, that the committee are unanimous in their expression of preference for this report, and that by it they are determined to stand or fall. Now, Mr. PRESIDENT, there is no man who would be more in favor of uniting and agreeing upon one Constitution, than I would, provided, we could secure our rights —rights which we claimed when we first came into St. Paul; rights which we claimed when we organized this Convention; rights which we heralded all over the world as being rights which belonged peculiarly and exclusively to the majority. But I am satisfied that this report does not secure to us our rights, and for that reason I shall vote against it. Sir, we are told by the chairman of the committee that what has been done has become a matter of history, that we ought not to look back to see what has taken place, but that we should look ahead to the future prosperity and happiness of the people of this Territory. Sir, I am one of those individuals that love, upon certain occasions, to look back and see what kind of a track I have made. I am one of those individuals who believe there is such a word as "consistency" in the English language, and that upon certain occasions it is our duty to look back and see what positions we have previously occupied, what sentiments we have previously heralded to the world, and what doctrines we have previously preached.

Now sir, we came here claiming that we had a majority of this Convention. Did we not? When we came here we said that, being a majority, we had the right to rule and control this Convention. Did we not? Did we not say that we had fifty-eight members

who held credentials fair upon their face, and that fifty-eight was a majority of one hundred and eight? Of course we did. And did we not come into this building at twelve or one o'clock at night, for the purpose of preserving, protecting and defending those rights which were vested in us by virtue of our having a majority? Of course we did. And, sir, when the minority came into this Hall in a body and left us so unceremoneously, and unparliamentary and set up a bastard Convention upon their own hook, did we not say that we had a majority of the legally elected members of the Convention—that we had fifty-eight members who had credentials fair upon their face, that we had another member from the eleventh council district (Mr. SHELDON) who had received a majority of the votes of his particular district, but for the reason that some of the local officers acted injudiciously and erroneously, that those votes were not canvassed; and did we not say that he was entitled to his seat because he had received a majority of the votes of his district? Certainly, we did. And, sir, when our Democratic friends left us and went into the other Hall to organize a bastard Convention, did not we set up a howl which has gone all over the land? That howl was that we were a majority and they a minority; that we were the representatives of the people of the Territory, that they were the border ruffians, that they were men seeking to trample upon the rights of the people of this Territory, while we were seeking for nothing but what was right, and fair, and honorable among men. Did not we say that? Of course we did.

Well, sir, after having taken that position, after having said that we would go on and frame a Constitution for the reason that we were a majority and had the legal right so to do, and that we would submit that Constitution to the people, and that we would be sustained by the people, what do we propose now to do? We were unanimous in the positions we took at that time. We said we had been treated like dogs; we said that those who left us had no right to leave us, and had no right to set up and organize a Convention of their own, and that for that reason we would not respect them, or recognize them at all. Such was the position we took at that time, and at that time nothing at all was said about all this ruin, and anarchy, and desolation, which is to spread over the Territory. Not one individual member of those who are now so exceedingly anxious for this compromise, even dreamed of this anarchy and confusion which they now talk about so much as about to sweep over the Territory, destroy our real and personal property, and prevent the influx of capital from foreign States and countries. Then we were all unanimously in favor of presenting our own Constitution to the people, with the understanding among ourselves, to say the least of it, that we should be sustained by the patriotism and intelligence of the people.

But now it has been discovered, by these very same men who were so very anxious that we should come here at the dead hour of the night, contrary to all former usage, contrary to everything like courtesy—I say it has been discovered that we were all wrong, and they now propose to back down from their positions, and say we were lying to the people, and that all that hue and cry was moonshine, and that there was no truth in it, and that because anarchy and confusion are about to sweep over the land we must unite upon one Constitution.

Sir, when we were candidates before the people, what was our story? We desired to be elected as Republicans to this Convention, and why? For the purpose of securing a majority in this Convention. And why? So that we could carve up this Territory in such a manner as to secure two members in Congress; and not only that, but to carve it up so that we could secure a majority of the first Legislature, and, by so doing, secure two Senators in the United States Senate—that we might send to the Halls of the National Legislature men who would represent Republican views and sentiments. That was the story we told our constituents at the time we were candidates, and the people elected fifty-nine of us. And we fifty-nine came here with the understanding that a majority should rule. That is an old and established Democratic doctrine.

And now, Mr. CHAIRMAN, instead of carrying out what our constituents supposed we would carry out, and instead of adhering strictly to our rights as a majority, we propose to throw all this arrangement into such

a state that the Republicans will not elect one single member of Congress, and by which the Democrats will stand one equal chance with us in securing a majority in the first Legislature, and thereby two Senators in the United States Senate. These are my opinions. Having told this story to the people, before whom I was a candidate, I do not propose now to eat my own words. I am not disposed to back down from that position. I am disposed to look back and see what tracks I have made, what stories I have told, and what positions I have taken, and I am disposed here to adhere to those positions.

I came here as one of the majority of this Convention, and being of the majority, I supposed we had the right to rule and control it, Now what is the objection raised against submitting two Constitutions to the people? We are told that the Democrats will make arrangements by which they will have a foreign population in the river counties which will cram our ballot-boxes full of votes, and in case the ballot-boxes will not hold a sufficient number of votes to secure their success, that they will bring in dry-goods boxes and cram them full of votes also. Now I ask you, if they can do that in regard to the Constitution, can they not do it also in the election of judges, the members of Congress, and members of the Legislature? Certainly they can, and all this hue and cry now raised about the difficulty of submitting two Constitutions, is an after thought—as much an after thought as it was with Douglas when he brought in his second Nebraska report. I am one who always was suspicious of these after thoughts, and generally disposed to adhere to the positions I have taken, provided I am right in the first instance. It does seem to me that those men who are so fast for this compromise, who say we *must* compromise, that it is the all-absorbing question, that the whole country is looking upon us and anxiously expecting that we shall make a compromise, should look back a little and see the position we occupied six weeks ago, when we said to the people that we would present to them a Constitution which would be Republican in its character.

Look at some other points. We came here as Republicans, and many of us were in favor of negro suffrage; and when we talked over the question in caucus a good many of us said that we were entirely ready and willing to submit it as a separate proposition to the people. Why? Because we were anxious for speedy admission into the Union, because we wanted our Constitution ratified by the people, and did not wish the fate of the Constitution to hang upon the fate of the decision of the negro-suffrage question—for a good many of the Republicans, or men who are acting with the Republican party, are recently from the Democratic or Whig ranks, and are not so much abolitionized as a good many others, and therefore not so exceedingly fast upon the question of negro suffrage. We compromised upon that question, and unanimously agreed to submit it as a separate proposition. Now what do we propose? We propose to give that question the go-by, entirely.

What do we get in return for it? We get Indian suffrage; we get at least six or seven hundred half-breeds, who have, by virtue of that report, not only the right to the exercise of the elective franchise, but to be made officers of the State of Minnesota; and not only that, but they can hold any office that the people of this proposed State see fit to boost them into, except Governor and Lieutenant-Governor. We propose to back down, and say that the negro shall not vote, and say that the people shall not express their views upon it. That is what we receive in return for our desire to compromise and arrange this whole difficulty.

Now, sir, I stood here as the opposer of Indian suffrage, unless the right was confined to those who had adopted the dress, habits and customs of civilized life, and had passed through an ordeal which should satisfy the mind of any intelligent man that they had done so. As to the necessity of that, we have only to look to the Sioux and Winnebago reserves to see what an amount of votes can be polled upon those two reserves without such restrictions—and all upon one side too, under and by virtue of that one Constitution which you propose to send out to the people. And while you are conferring these extraordinary rights, you prescribe the negro race, and strike at the root of popular sovereignty, which is that the people have a right to decide all these questions themselves. This is

what you propose to do by virtue of this glorious compromise.

Now, so far as I am concerned, I would rather we had, when those who claim to be Democratic members left this Hall, followed them into the Hall, and whenever the question came up there, allowed them to control it themselves, or else have taken our hats and gone home. And I say, sir, if there had not been one single Republican in this Convention, the Democrats could not have got up a more anti-Republican Constitution than this which is recommended by the committee. No democratic Constitution could be more anti-republican than this very same Constitution.

Now taking into consideration the positions we have previously occupied, the things we have previously contended for,—the right of submitting this question of negro suffrage to the people; the propriety of compelling foreigners to remain a certain length of time in the country until they become somewhat acquainted with the machinery of government; the restriction upon the right of suffrage to certain half-breeds and whole blooded Indians having certain qualifications,—and are now proposing to abandon all these for the purpose of compromising, and for the purpose of avoiding this great calamity, this war and destruction which gentlemen say are now hovering over this land, but which, six months ago, no member of this Convention dreamed of existing; I say, in view of all these things I have simply to say in the language of the pious old poet:

"Black spirits and white, blue spirits and gray,
Mingle, mingle, mingle, ye who want to, may."

Mr. McCLURE. So far as I am concerned, I agree cordially and heartily with much that my friend who has just resumed his seat (Mr. COGGSWELL,) has stated, and for the purpose of justifying myself before my constituents and the Territory, I beg leave to submit a few remarks.

So far as our organization is concerned, every member knows the position I assumed; and so far as the conference question was concerned, every member here also knows the position I assumed on that. I was, with my friend, (Mr. COGGSWELL) in favor of giving or submitting a Constitution made by the Republican members who had been elected to this Constitutional Convention. In my absence at home a resolution was passed, authorizing the creation of a joint committtee to meet a like committee to be appointed by the body sitting in the other wing of the Capitol. My name was placed upon that committee. When I returned, I took occasion to disprove of what had been done; but I am just as much in favor of the majority ruling as my friend before me (Mr. COGGSWELL,) is, and when a majority of this Convention had decided that such a course as that should be pursued, as a matter of course, I submitted to it. I hesitated sometime whether I should decline serving on that committee, or whether I should go there in conformity to the wishes of those who appointed me. I consulted with friends, and stated substantially my objections to them, and I was induced by their advice and suggestions to consent to serve as a member of that committee. I went there for the purpose of carrying out the views of the Convention as far as it was possible for me to do, and no vote have I given in that committee contrary to a majority vote given in this body on the same subjects, only with one exception, which I will point out in a few minutes, and that was not given until after consultation with those gentlemen who had voted for a certain proposition, and until I was told that it would meet their views.

The very first day after we went into the committee, I was satisfied from the acts and from the declarations of the chairman of the part of the committee appointed by the other body, (Mr. GORMAN,) that it was his determination never to agree upon one Constitution. I was satisfied from the positions which he assumed and the questions he brought up there, that he was determined to make a split right upon the question, and that alone, of negro suffrage. We passed on from one subject to another until we arrived at a certain point where this question had to be met directly in the face. Not being able to get over that point, I submitted to the conference committee that they should not make provisions for submitting two Constitutions until we had made one more effort to agree upon one, (after first having agreed upon those points in our Constitution which, if different, would lead to a conflict in the returns, and to a conflict between the different sets of officers elected under them.) The whole idea of sub-

mitting one Constitution had then been given up. A proposition had been submitted in the other body, and voted for by every member of their committee, that the right of suffrage should not be extended by the Constitution to any one having African blood; that the Constitution should not be so amended as by any possibility to allow them the right of suffrage; and that no law should ever be passed submitting to the people the question whether the right of suffrage should be extended to them. That proposition was submitted to us, every Democratic member of the committee voting for it, and our members voting against it. The proposition which I submitted when we arrived at that part of the Schedule in which we were going on to make provision for the submission of two Constitutions, I submitted on my own responsibility, after consultation with some gentlemen of this Convention. The proposition was substantially this:

"*Provided*, nevertheless, that nothing in this Constitution shall be so construed as to prevent the Legislature at any time from passing a law extending the right of suffrage—"

Not to negroes, not to foreigners, not to women, but a general extension of the right of suffrage to all to whom the Legislature should see proper to extend it;—

"But that no such law should take effect until it was submitted to a vote of the people and be approved by a majorityof the votes cast upon that subject."

I intended that our Democratic friends, if they split, should split upon that point and decide that the people should not decide anything. I contended that that proposition was democratic, an old Jeffersonian principle, and that I should declare that no man could be a Democrat who should deny such a right.

When that proposition was submitted, my friend BROWN, a member of the committee from the other wing, said that that did seem actually democratic, that there could be no objection to it. It was then proposed by him that we should so amend the article upon amendments to the Constitution so as to just get what we wanted; and in doing that, Mr. PRESIDENT, we got a great deal more than we would have asked for, and a great deal more than the Democrats probably now think that we did get.

Let us see: our Democratic friends had a proposition in their Constitution substantially like this:

"Whenever a majority of both Houses of the Legislature shall deem it necessary to alter or amend this Constitution, they may propose such alteration or amendment, which proposed amendment shall be submitted to the next legislative assembly, be published with the laws which shall have been passed at the same session, and if a majority of each House, at the next session of the legislative assembly shall approve of the amendment proposed, on a vote by yeas and nays, said amendment shall be submitted to the people."

This was the proposition which our Democratic friends had in their article upon the amendments to the Constitution. According to that one Legislature would have to propose an amendment, publish it with their laws, submit it to the next Legislature, to be passed by a majority of that Legislature, and then be submitted to a vote of the people. Two successive Legislatures would have to have acted upon it, and then the people would have had to have acted upon it before it could have been adopted. Our proposed amendment was this:—"that a majority of both Houses may "propose amendments, shall publish them with "their laws, and that they shall be submitted "to the people for their approval or rejection at "the first election thereafter."

Now, what did our friends in favor of negro suffrage sacrifice by that? They sacrificed the privilege of submitting to the people, as a separate proposal, at the time of the adoption or rejection of this Constitution, the question whether the right of suffrage shall be extended to those in whose veins runs African blood. They know, I know, and everybody knows, that that would have been voted down by an overwhelming majority, and that no vote could have been taken upon it again. When they had once voted, their power would have been exhausted. Then they have simply sacrified the privilege of giving a minority vote in favor of that proposition; for not one of them will say that it could pass. Every Democrat in the whole country would vote against it, and a large majority of the Republicans would vote against it; hence it could not pass.

Now let us see what our friends upon that side gain by it. Why if they are prudent—and I suppose they are and will be—they will never propose such an amendment until the public mind is educated up to that idea, that

they will be pretty sure that they will get a majority. I do not believe there is one of them who is so impolitic as to wish to take a vote upon a thing continually, when it must come out in the minority every time. I hope no man belonging to either the Republican or Democratic party could be so impolitic as that. They have gained this point, then, that whenever they think the question can be passed by the people, and they have a majority of the Legislature which will propose such an amendment, it can be voted upon, and if it obtains a majority of votes, it becomes a part and parcel of the Constitution. Now that can be done at any time hereafter, while under our own proposition the question could only be voted on now, when we all acknowledge that it would be voted down, and then our power would all be exhausted.

It may be that the people may want to extend the right of suffrage to women, to Indians, or to negroes; and under this provision they can extend it to any class they think proper. Now, in my judgment, that is a great gain for them. They could take a vote on the proposition we proposed to submit, but they could not succeed, and then their ammunition would be exhausted. By this they can await the proper time until their eye is unerringly upon the mark, and then drawing the trigger, there will be some chance of their prey.

But again: granting for the sake of the argument that we have gained nothing upon this point, it is true that we have lost nothing. We can propose by a majority vote of the Legislature, at any time to submit any amendment to a vote of the people. A banking law could be recommended by the Legislature, and become a part of the Constitution after it shall be ratified by the people. The banking privilege is an important one, and in my judgment no law granting banking privileges ought to go into operation without the sanction of the people, expressed by a direct vote upon that one question.

I don't know but that I am more democratic than the Democrats themselves. I have every confidence in the people, and in the representatives of the people; and if the people do wrong, or their representatives do wrong, I believe they have the power and the wisdom to correct the evil. Wrong may be perpetrated, unwise and unjust legislation may be passed; but the people will chastise their representatives just as certainly as they exist, and will correct those evils as soon as they can. I am willing to leave this matter entirely with the people. So far as my judgment is concerned, our friends, so tenacious upon the subject of negro suffrage, have gained materially by the provision as it now stands. Certain defeat would have been the inevitable result of a vote this fall. Now they will have some chance hereafter, if they are prudent, when the public mind becomes educated upon the subject. It may be a long time before the prejudice which now exists can be eradicated; but when it is, they will have a chance.

As to my friend before me, (Mr. COGGSWELL,) I will say there is no man for whose opinions I have a higher respect. He has for a long time been my equal, and, I would admit, my superior in knowledge. We have been partners in law together, and always, when we differed I have bowed with humble submission, [laughter] because it is true he is a perfect book worm. I have known him, however, somestimes mistaken; sometimes I have known him not to carry his point, and even the court dared to differ with him; and sometimes I have known twelve honest jurors to differ with him; but that did not lessen him in my estimation at all—not in the least. So I think he may sometimes err in his judgment.

I shall vote, myself, for this proposition, because it meets my views precisely; but I do not ask a majority of this Convention to do so. Let them act like men—like Republicans, and in the spirit of true Jeffersonian Republicans; and if there is anything which they do not like and cannot conscientiously vote for, as men they ought to vote against it, and they would do wrong if they did not. It would be remarkable if a Constitution had been framed by us—a band of Republican brothers—without the Democrats to fight with, upon which, when the final vote was taken, we should have all been found united. It would have been a remarkable circumstance. I am not much in favor of unanimous votes upon any important thing, because it looks a little too much as though that consideration had not been given it which there

ought to have been. But I shall bow to the will of the majority. If every man in the Convention should vote against it, I shall believe that they have acted rightly and conscientiously.

But my friend (Mr. COGGSWELL) seems a little concerned lest some half-breed might, perchance, be Governor of the State of Minnesota. Well, I do not suppose my friend, if a majority of the people of Minnesota should select Fred Douglas, or any other person having African blood in his veins to be Governor, would dare to say they had not the right to do so. No man would say that, who had the first particle of Republicanism in his veins, and I know my friend is full of it. When the public mind becomes educated and familiarized with the savages of the forest as to take that hard named fellow—[A voice, "Ink-pa-du-tah"] well, I will take his pronunciation first. When the public mind shall become so far educated as to pick him up and make him Governor of Minnesota, though I should vote against him, undoubtedly, I would not further object. Nor would I leave the Territory, because I should expect to get into a fight pretty soon, and upon certain occasions I would as soon fight as stand still.

Well, now, upon whom do we bestow the right of voting? First, to white citizens of the United States. Second, to white persons of foreign birth who shall have declared their intentions to become citizens conformably to the laws of the United States upon the subject of naturalization. There is nothing wrong thus far. Third, to persons of mixed white and Indian blood who have adopted the habits and customs of civilization. The only question which can arise upon that point is in reference to the length of time that they should have adopted the customs and habits of civilized society. That is all. It is a mere matter of time; because if they have the very best blood of those who may have come amongst them tracing through their veins, if they are not men when they come to maturity, I apprehend that the good sense of community will never take them up and place them in any office; or if they do, they will have to bear the consequences.

The next class is, "persons of Indian blood "residing in this State, who have adopted the "language, customs and habits of civilization, "after an examination before any District Court "of the State, in such manner as may be pro- "vided by law, and shall have been pronounced "by said Court capable of enjoying the rights "of citizenship within the State."

Now, in order to object to that, in my judgment, he must come to the conclusion that the Judge of a District Court must be a corrupt, base and perjured villain. Why? Because if he were not he would never certify to anything which he knew to be untrue for the purpose of making a vote. I care not whether he be Republican or Democrat, he would have to degrade himself below the savages of the forest before he would do it. I have not, when upon the stump, a great deal of confidence in what my democratic friends say; they always go in for victory, and I expect the Republicans will do the same; and if a Republican should be a Judge, under the solemnities of an oath, I should come to the conclusion that he would do right, and I would not say that a Democrat, under the solemnities of an official oath would not do right, until I was satisfied to the contrary by an act which he had perpetrated, even though when upon the stump telling a story about the Republicans, I would not believe a word; [laughter] for they would present the facts and the arguments in the best manner possible; and so would my friend before me, (Mr. COGGSWELL,) for I tell you he can present facts upon the stump, that if men did not know they came from such a source they would be staggered to believe them. [Great laughter.]

As to the last part of that latter provision, I would, if I had my own way, have made it a little different in reference to the half-breeds, though I would not in reference to the full-blooded Indians.

Now, it was impossible for us to agree upon one Constitution and put the African upon the same footing with the Indians. That was a matter of impossibility. Then what must we do? So far as lowering our dignity is concerned, I profess to have as much dignity as the circumstances will admit of. Since I came to St. Paul, [laughter,] I have been necessitated to accommodate myself to surrounding circumstances. Well, each body firmly and positively declared that it was *the* Constitutional Convention, and, as

a necessary consequence, that the other was bogus. Now, there is one of us mistaken in that declaration. But a correspondence takes place between those two dignified bodies, and in some way or another, by the appointment of a joint committee, they met upon a common level. I do not care which occupied the highest post before, the moment the committee was appointed they met upon common ground, and although one assembled in one end of the Capitol and the other in the other, virtually they were one, and the only difference was whether SIBLEY or BALCOMBE should be the head. I presume that the sun would rise and set, and that the heavens would not fall, though the heads of SIBLEY and BALCOMBE were to be severed from the trunks. I do not believe the whole arrangement of creation would be disarranged if they were both in paradise. (Great laughter.) Now the question was this: Shall all our hopes of seeing Minnesota come into the Union as a State be blasted, after having appointed this committee of Conference, by the submission of two Constitutions, by the warfare that would run over our Representative Districts, and the confusion that would reign from beginning to end; or shall men act like wise men and reconcile the matter and submit but one Constitution, and then go upon the stump and fight our battles in that way? And I tell my Democratic friends, that just as certain as fate, if my exertions will beat them in the coming campaign I will do it. There is no mistake about that. If my exertions would secure the election of every State, county and town officer to the Republicans, I would do it; and they are more docile than I think they are if they would not do the same—and it is said that they sometimes condescend to pretty mean things. But that has nothing to do with the question before us. Shall we adopt this Constitution or shall we not? So far as I am concerned, I shall vote for it, though I do not ask any single member of this Convention to do so. I feel bound by everything which the Convention has done, but if adopted, it must be adopted as a whole, because a single amendment destroys the whole arrangement between us. If they make an amendment, they violate every single principle upon which they appointed that committee; if we do, we do also. If they make an amendment, let them take the consequences of submitting two Constitutions; if we do it, we must take the consequences.

Now, there has been quite a quarrel as to how this matter of signing the Constitution should be got along with, so as to get the Constitution into the Governor's office. Mr. SIBLEY thinks he would be lowering his dignity to sign one Constitution with Mr. BALCOMBE. Now I think that is very contemptible, and mere child's play; and to satisfy that gentleman, we made out two sets of papers, exactly alike, word for word, and they sign each separately as the Constitution of the State of Minnesota. It is a joint product of the joint committee of both ends of the Capitol, and they are filed separately in the Secretary's office. Now in my humble judgment, between those two men it is the most childish thing I ever heard of; but as it does not hurt any body, let the children do as they please. I am willing they should do so when it does not affect the accomplishment of the object we have in view.

Mr. COLBURN. I move that the final question on ordering the report to a third reading be taken at half past three o'clock this afternoon.

Mr. McCLURE. I hope, if there is any gentleman who has anything to say upon this report he will say it now.

Mr. COLBURN. A number of members have gone to dinner, not supposing that the question would be taken till this afternoon.

Mr. KEMP. I move that the Convention take a recess until half past two o'clock.

Mr. GALBRAITH. While it is desirable that every member should be present to vote upon this subject, it is also desirable that the vote should be taken at once. Speeches have been made upon each side, and the remarks of the gentleman from Goodhue County expressed the united voice of the committee. They were characterised by practical good sense, and I endorse every word uttered by him. The conclusions he came to are correct in the opinion of the committee, and I think they cannot be questioned by the Convention. The remarks of the gentleman from Steele County (Mr. COGGSWELL) were as good as can be made upon that side. If there are any further remarks to be made, I hope we

shall have them immediately, so that we may dispose of this matter as soon as possible.

Mr. BALCOMBE. Lest some wrong impression may go abroad, from the remarks of the gentleman from Goodhue (Mr. McCLURE) as to the matter of signing one Constitution, I wish to state that I have never refused to sign one Constitution in company with my friend, Mr. SIBLEY, and do not now. I stand ready at any and all times to sign one instrument with him, and I prefer to do so, to filing two separate pieces of paper, each containing one and the same Constitution.

Mr. McCLURE. My remarks were merely inferential.

The motion to take a recess was then agreed to.

AFTERNOON SESSION.

The Convention was called to order at half past two o'clock.

The PRESIDENT. The question is upon ordering the report of the committee of Conference to a third reading.

Mr. SECOMBE. The subject matters contained in the report of the committee, have been before the Convention during its session and have been discussed. There are in the report, probably, no matters other than what have been either adopted or rejected by this Convention, and as was remarked this forenoon by the gentleman from Goodhue County, it has been my lot to say more or less upon the propositions which have been before the Convention. The remarks I have made remain a matter of record, and I propose simply to say, at the present time, that the various matters I have approved of at times when I have spoken heretofore, I approve of now, and those of which I expressed my disapprobation, are entitled to the same disapprobation now.

At the same time, Mr. PRESIDENT, I propose to vote for the report which has been made by the committee. I do so because, although it does not meet my approbation in all respects, I believe it is for the best. I believe that no gentleman of this Convention, when he comes to consider upon the practical importance of this vote, will differ from the opinion I have expressed, and which has been expressed by the gentleman from Goodhue County. But I desire to say a word especially in reference to one subject which has been discussed pretty thoroughly heretofore—the right of suffrage. I cannot vote for this report without again entering my protest against the doctrine of the report enunciated upon that subject. But, Mr. PRESIDENT, the general provision for proposing and adopting amendments to the Constitution, is of such a nature that the will of the majority of the people of the State of Minnesota, cannot be prevented an expression. If a majority of the people of the State, at the meeting of the first Legislature see in the Constitution, which we propose to send out to them, errors and omissions, or matters inserted which should not be there inserted, they have a plain and simple method by which they can relieve themselves from the burden upon them. For that reason I shall vote for the Constitution as it now stands, hoping that the time will come when, in respect to the elective franchise, the Legislature and the people of the State of Minnesota will take the true ground of liberty upon that subject.

Mr. WILSON. I wish to say but one word. I shall vote for this report though I do dislike parts of it very much. I dislike a part of the judicial system, and I dislike very much indeed the arrangement for electing members of Congress The location of the University—I need not say I dislike that. I have not changed my mind. The committee have reported it, and doubtless they have done what they thought best and right. I shall vote for the report, though I would it were different.

Mr. NORTH. I do not know as it is necessary to say anything upon this occasion. I do not wish to take up the time of the Convention, but I will say a word.

There are points in this Constitution, as reported, that I very much wish were otherwise. The position I have taken upon some points contained in that report, is well known; and I might refer to quite a number of points which I think could have been very much improved. Upon the suffrage point, particularly, I could wish the report were different. But since this Convention decided to insert the word "white"—and there is no hope now of getting it out—it becomes with me a question whether the present provision is a better one than the contemplated provision to sub-

mit that question now to the people. It may seem to some like yielding a principle not to submit that question to the people when the Constitution is submitted, but to my mind we gain as much in the trade as we yield. For that reason, I shall not feel it my duty to oppose the Constitution as it has been reported. In those points in which the people wish to change it, it can be changed at any time by amendment proposed in the Legislature, and submitted to the people immediately, without waiting a tedious process through years to accomplish it. It affords an opportunity for improving that instrument, which other methods of amendment might not afford. I have it also from good authority, from persons most deeply interested in the suffrage question, that the most intelligent of the colored class feel that this provision is better than the other would have been. That, to my mind, is something of a reason for being satisfied with the provisions of this report upon that subject. I shall, therefore, vote for this report, and hope it will be adopted.

Mr. MESSER. I merely wish to say that I deem it my duty to vote for this report at this time, but, while I do so, I wish again to enter my protest against the provision in regard to negro suffrage—a question upon which I have taken a decided stand. But when this Convention agreed to appoint this committee it was seen by me, and by the Convention, that that was the only alternative, and that it was necessary that there should be a compromise. Consequently, a committee was appointed and a compromise made more to my satisfaction than I had dared to hope; and while the word "white" is retained in the Constitution, I intend to follow up the matter to the Legislature, and exert what influence I possess, to have the word erased from the Constitution. Taking such a view of this matter, I shall vote for the report.

Mr. MANTOR. I, for one, shall vote for the report. It is not exactly what I would like; nor would the Constitution, which we had nearly framed, have been exactly what I desired. I did not come here expecting to get an instrument which would suit me in every respect. I came here expecting to find a variety of opinions differing from mine, and that some of them would find their way into the Constitution; and it would be no more than I could expect, to have to vote, finally, for an instrument which contained provisions I do not very much admire. In reference to the article on Elective Franchise contained in this document, I like it much better than a great many other provisions on that subject which could have been made. I can now see some possible chance of extending the right of suffrage to the colored man, when the people of the State of Minnesota shall be better prepared to do so than they are at present. I was convinced, on hearing the arguments of gentlemen upon this subject when it was before the Convention, that we could not get a majority of the people of the incoming State of Minnesota to sustain the doctrine of the right of suffrage upon the part of colored persons. Under the arrangement we had proposed for ourselves, after we had cast one vote we should have exhausted our power; but now we can have the question submitted time and again.

There are other reasons why I shall support this Constitution. I have been laboring for weeks under a dilemma as to the manner in which we were going to get into the Union, but I can now see how we are going to get into the Union without turmoil and confusion. I might add other reasons, but it is unnecessary.

Mr. BILLINGS. In regard to this matter, I scorn now, as ever, to make an apology for what I do deliberately. I make none. I ask none. Let every man dispassionately determine what is his duty, aside from outside pressure or improper influences, and stand acquit at the bar of his own judgment and conscience. Were I acting for myself only, it would be of very little consequence how I should vote upon this question because not many years hence, the circumstances, the influences, and the policy which govern us to-day as individuals will have been covered up in the past and forgotten; but the acts we do will live and tell upon ages yet to come. Having opposed certain measures when they were properly before us, which are now retained in this report, I cannot see by what course of reasoning gentlemen who acted with me then are now found upon the other side. Have the facts changed? Is the

principle different? Has Republicanism become a different *ism* from what it was the thirteenth of last month? I trust not. Have we a less desperate foe to contend with, or a country whose claims are lighter upon us? Not at all. The right had advocates then, and I trust it will have a few still. Gentlemen say to me it is policy, under present circumstances, to act so and so. I deny that anything is true policy which is wrong. When shall we learn from the history of the past, that to do right, to love mercy, and to deal justly, are the surest safeguards of liberty? Are we to gain national eminence, and become great and good as a nation, by means that would sink individuals, socially and morally? By no means. Such is not the order of things.

I hold that no defeat from outside pressure is as disastrous to us as a people, as a surrender of the high position which Republicans have hitherto assumed. I speak not now particularly of the suffrage question. I differ with many gentlemen upon that point, and my views are upon the record, but there are other features in this report which we, as a Convention, have refused to recognize. I make no factious opposition because I bow humbly to the will of the majority. If this Constitution is adopted by the Convention, I will labor for its acceptance by the people, and for the election of the candidates nominated to serve under it. But because I apprehend that a majority are going to vote for it, must I necessarily consent to vote with the majority? Not at all. I can be consistent without going with the current.

How should I answer to the future for such a course? I have not so learned the rule of life. It may be that I am behind the age. It may be that I was never designed for a politician. That is a sphere in which I desire not to act. But if I act as a politician, I must act too as a man, and whether I act in an individual or in a representative capacity, I must apply the same rule to myself, and leave it to future generations to decide whether I am right or not. When the vote is taken, you will record my silent, firm, but solemn "No." I bequeath not to Minnesota, the home of my adoption, a Constitution unworthy of her. I would bequeath to her a largeer and purer gift than gentlemen around me—I would give her liberty, socially, politically, and morally. These I tender to her by my vote.

Mr. McKUNE. Mr. PRESIDENT: I have but a very few words. I have seen Republicans vote to sustain enormous corporations, and willing to confer upon them powers and privileges by which they might crush out individual rights; and again, I have seen them vote against submitting to the people of Minnesota the decision of a proposition which immediately affected their rights, and which did not, in substance, amount to anything more than a memorial to Congress. And now, when they bring forward this compromise, I see that it has been obtained at the sacrifice of almost everything for which I was elected. I see that the apportionment of representation is sacrificed by it. I see in it, that the University Fund is placed in a position to be controlled by a few. I see in it the sacrifice of almost everything for which I have worked earnestly and honestly in many a campaign; questions involving the greatest principles, all sacrificed and given up at once for this compromise. I know, sir, that my opposition cannot avail anything. I know that I cannot argue here successfully against this report. But I want to be consistent. I want to sustain here a position that shall be consistent with what I have done and said heretofore; and therefore I have determined to do here upon this question, the same thing that I shall do elsewhere. I shall vote against this report here, and I shall vote against the Constitution it embodies, when it shall come before the people. If it be in my power to prevent its adoption by the people, I shall do it. I would rather have no Constitution. I would far rather see a new Convention called to frame another Constitution. Taking this view of the subject, sir, it is impossible for me to sustain this report. I have stood here amongst those who have thought a compromise was desirable, if it could be obtained without the sacrifice of rights and great principles; but when I find, that, instead of such a compromize, we are presented with a report, by which we are overreached and humbled not only as a party, but as a Convention and as indiviuals, I cannot and will not give it the sanction of my vote.

Mr. DAVIS. Mr. PRESIDENT: Inasmuch

as both my colleagues have expressed their views upon this report, perhaps I ought to give mine. I have to say, sir, that I shall vote against this report, for the reason, that I think it requires of us the sacrifice of a principle. I have been of the number of those here who never have been in favor of a compromise. I have never been anxious for uniting with the other body upon one Constitution, for the reason that, I saw plainly, by so doing, we must be losers, and they gainers in everything. I saw that to do so, we must sacrifice a principle, and we have done so. That state of anarchy which gentlemen have said awaited us, I have never seen. I have never been afraid of the future, in the course we have pursued here. The howlings of go-betweens have never frightened me in the least. But, now, inasmuch as it has been determined here to unite upon one Constitution, I shall do all in my power, when it shall come before the people, to secure its adoption; not because, it suits me, but because, under all the circumstances, I shall be disposed to think it the best that can be done.

Mr. SECOMBE demanded the yeas and nays upon the pending question: Shall the report be ordered to a third reading? and they were ordered, and being taken, resulted —yeas forty-two, nays eight, as follows:

Yeas.—Messrs. Aldrich, Anderson, Balcombe, Baldwin, Bates, Bartholomew, Bolles, Butler, Cleghorn, Colburn, Coe, Cederstam, Coombs, Duley, Dickerson, Eschlie, Foster, Galbraith, Hayden, Harding, King, Kemp, Lyle, Mantor, McCann, McClure, Messer, Morgan, Mills, Murphy, North, Phelps, Perkins, Peckham, Russell, Stannard, Secombe, Smith, Vaughn, Walker, Watson and Wilson.—42.

Nays.—Messrs. Billings, Coggswell, Davis, Gerrish, Hanson, Holley, McKune and Robbins.—8.

So the report was ordered to be read the third time.

Mr. MANTOR. Mr. PRESIDENT: I move to suspend the rules so far as to allow the report to be read the third time now, by its title.

Mr. SECOMBE. Mr. PRESIDENT: I hope that motion will not prevail. I was so unfortunate as not to get in this morning, until quite a large portion of the report had been read through. It seems to me it ought to be read again at large.

Mr. BILLINGS. Mr. PRESIDENT: I hope it will be read again. I presume there are others who have not heard it, and that other gentlemen who had heard it, when they come to hear it again will vote differently.

Mr. COGGSWELL. Mr. PRESIDENT: I shall object to the reading. It will require too much time. This is a dose that has got to go down, and we might as well shut our eyes and open our mouth and take it. [Laughter.]

Mr. WILSON. Mr. PRESIDENT: I certainly think this is a question upon which we ought not to be in too much haste about the vote.

The PRESIDENT. The Chair will take a division of the question.

The first question being on a dispensation of the rules so as to admit of the third reading now, was carried, and the second question, "shall the rules be suspended so as to "allow the report to be read by its title?" was also agreed to.

The question recurring on the final passage of the report—Mr. COGGSWELL demanded the yeas and nays, and they were ordered.

Mr. BATES. Mr. PRESIDENT: I have been so unfortunate as not to have heard the reading of the report, and I ask, on this account, to be excused from voting on this question.

The PRESIDENT. The Chair will entertain the gentleman's motion.

Mr. WILSON. Mr. PRESIDENT: I make the point of order, that a majority vote cannot excuse a member from voting. We have a rule requiring every member to vote, and to excuse from voting involves a suspension of the rules.

The PRESIDENT. It is still the opinion of the Chair that a majority can excuse a member from voting.

Mr. WILSON. I think then, Mr. PRESIDENT, the latter part of the rule, as to the time when the motion shall be put, cuts off the present motion.

Mr. BATES. Mr. PRESIDENT: I would like to know if a man must vote without having ever heard the proposition?

The PRESIDENT. The Secretary had not begun to call the roll.

Mr. WILSON. I will say, that I hate to vote on this report most awfully myself, and I am therefore, perhaps, the more willing to excuse all I can.

Mr. COLBURN. Mr. PRESIDENT: Now that the gentleman has helped us to get up this prescription, I hope he will be willing to help us swallow it.

The motion to excuse Mr. BATES was rejected.

The question on the final passage of the report of the joint committee of Conference was then taken and resulted—ayes forty-two, nays eight, as follows:

Yeas—Messrs. Aldrich, Anderson, Baldwin, Bartholomew, Bolles, Butler, Cleghorn, Colburn, Coe, Cederstam, Coombs, Duley, Dickerson, Eschlie, Foster, Galbraith, Hayden, Harding, King, Kemp, Lyle, Mantor, McCann, McClure, Messer, Morgan, Mills, Murphy, North, Phelps, Perkins, Peckham, Russell, Stannard, Secombe, Smith, Thompson, Vaughn, Walker, Watson, Wilson and Mr. President—42.

Nays—Messrs. Billings, Coggswell, Davis, Gerrish, Hanson, Holley, McKune and Robbins—8.

So the report of the committee on Conference was agreed to.

When Mr. HAYDEN'S name was called, he explained and said: Mr. PRESIDENT: I have determined to vote *Aye* here, because I prefer this report to falling back upon the Constitution we have been framing, and thereby involving the submission of two Constitutions.

Mr. GALBRAITH. Mr. PRESIDENT: I desire to make another motion here, to make it show upon the record what has been done.—I move to substitute the Constitution embraced in the report just passed for the several Articles of the Constitution which the Convention have heretofore adopted.

Mr. COGGSWELL demanded the yeas and nays upon this motion, and they were ordered, and being taken resulted—yeas forty, nays seven, as follows:

Yeas—Messrs. Aldrich, Anderson, Baldwin, Bartholemew, Bolles, Butler, Cleghorn, Colburn, Coe, Cederstam, Coombs, Duley, Dickerson, Eschlie, Foster, Galbraith, Hayden, Harding, King, Kemp, Lyle, McCann, McClure, Messer, Morgan, Mills, Murphy, North, Phelps, Perkins, Peckham, Russell, Stannard, Secombe, Smith, Thompson, Vaughn, Walker, Watson and Mr. President—40.

Nays—Messrs. Billings, Coggswell, Davis, Gerrish, Hanson, Holley and Robbins—7.

Mr. NORTH. Mr. PRESIDENT: the question arises in my mind whether this is a correct way of proceeding at this time. The idea of substituting a proposition for matter that has already passed from us, it seems to me, cannot be according to rule.

A VOICE. Too late.

Mr. NORTH. Perhaps not. There is yet, perhaps, such a thing as reconsidering what we have heretofore done, and laying it upon the table, according to our rules. But we have already passed various articles of a Constitution, and the question is, does this vote repeal what we have thus done? does not that work stands as the legal Constitution, as far as it goes? It seems to me that is a question worth considering. It seems to me it would be in order to reconsider the several votes passing those articles, and then lay them all on the table. That course would place them where they could not be meddled with. But I would first move to reconsider the vote just taken.

Mr. COGGSWELL. Mr. PRESIDENT: I hope that motion will not prevail. I will give my reasons: I regard it, sir, as a fixed fact, that we have made fools of ourselves from the very commencement down to the present time. We have proceeded in an unparliamentary manner time after time, and time after time we have passed solemn votes and then backed out. I propose now, after having taken this stand, that we stick to it, and swear that we will not back down on this. We have played the back-water trick long enough, it seems to me. I have got sick of it.

Mr. HAYDEN. Mr. PRESIDENT: I am not in favor of this back-handed work, in the way of accusations against the proceedings of this Convention, alleging that we have been unparliamentary and all that. Gentlemen should not throw out such assertions. In regard to the present question, I suppose this proceeding is all perfectly correct. As to those reports that have been passed and now superceded, if nothing more is done, with them, they remain just like any other reports that have failed. This which we have just finally passed, has become the Constitution, and the other cannot become so while this exists.

The PRESIDENT. The Chair will state, that, although reports of the various articles of a Constitution have been passed upon, still the Constitution, as a whole, has not been finally passed upon until the last vote was

taken. Hence those other former reports are left in an incomplete state, and so amount to nothing. The case is similar to that where a bill goes from one House to the other, and remains there untouched.

Mr. NORTH. If that is the decision of the Chair, I withdraw the motion to reconsider.

Mr. SECOMBE. Mr. PRESIDENT: It seems to me there is no necessity for going back, but that we have got yet one step further to take in going forward. We have heretofore passed the various readings of the various reports of our several standing committees by their titles, as *reports*. We have now had before us the report of this special committee, and that has been passed upon in the same manner, by its title, as the *Report of the Conference Committee*. I ask you, sir, if that is the name of the instrument we intend to send abroad? We have substituted this report for the others; and now, it seems to me, we should adopt this report as the Constitution, and I move, that the report of the Conference committee be adopted as the Constitution of the State of Minnesota.

The PRESIDENT. That was the effect of the last vote.

Mr. FOSTER. Mr. PRESIDENT: I will read as a part of my remarks, two resolutions which I think had better be adopted in place of that motion. It is proper that some official notice should be given to the other body as to the action taken here upon the joint report. I doubt whether we had better take the final vote till the whole thing shall be fully prepared and ready. The resolutions are—

"*Resolved*, That the report of the committee of Conference, as read the third time and passed by the Convention, is hereby referred to said committee, to be by them carefully compared with the report as adopted by the other body; and that the committee of Conference be instructed to arrange and number the articles of the Constitution in their proper order, and immediately cause the whole Constitution to be correctly enrolled for its due verification and authentication by the Convention.

"*Resolved*, That the President of this Convention communicate the fact of the adoption of the report of the committee of Conference, without amendment, and the passage of the above resolution, to the President of the Convention sitting in the Council Chamber of the Capitol."

I have so shaped the first resolution, that the verification of the Constitution by the signatures of members of the Convention, can be done at any time that may be convenient. Some gentlemen do not wish, perhaps, to remain to the final adjournment, and this allows us to authenticate by the signatures of those that remain with the officers of the Convention.

The resolutions were adopted.

PRINTING OF THE PROCEEDINGS AND DEBATES.

Mr. COLBURN called up the consideration of his resolution of yesterday, authorizing the President of this Convention to contract for the printing and binding of two thousand copies of the report of the Proceedings and Debates of this Convention, &c., by the official Reporter.

Mr. ROBBINS. I understand that the resolution provides for the publication of the Debates of the Constitutional Convention. I would ask the gentleman from Fillmore (Mr. COLBURN) what the object is in publishing debates which have no reference whatever to the Constitution which we have adopted.

Mr. HAYDEN. I would ask the gentleman from Olmsted if the subject matter of the various articles in the Constitution we have adopted, or are about to adopt, have not all been discussed in these debates.

Mr. ROBBINS. I understand that this report which we have agreed to, and which is the Constitution itself, was got up by the committee of Conference appointed by the two bodies, and not by the Conventions themselves. We may have discussed articles similar to them, but to say that our debates have any reference to this Constitution, seems to me to be erroneous.

Again, the publication of these reports will cost a large sum. It seems to me that the expenditure is unnecessary. If the gentleman will move to have the reports of to-day's proceedings printed, I will vote for it, but I shall vote against expending five or six thousand dollars for publishing matter which has no connection with our Constitution.

Mr. NORTH. I hope we shall have something to show what we have been about all this time. If we do not have these proceedings published the people will not know what we have been doing. (Laughter.)

Mr. COLBURN. I believe that nearly

every member of the Convention is desirous of having the report of our debates printed.

A similar course has been taken by the body in the other end of the Capitol, and I presume they will not be ashamed of their debates. I will not consume the time of the Convention in discussing this matter, for I presume the mind of every member is made up.

Mr. PERKINS. According to the idea of the gentleman from Olmsted (Mr. ROBBINS) if a report has been before this body and discussed, and finally a substitute adopted in its place, all the debate upon that report should be excluded from the reported debates. That is a wrong idea. We want to publish our whole proceedings, and give them to the public eye. The public will then know what has been transpiring here during the six or seven weeks we have been sitting here. I presume the Convention will be nearly unanimous in favor of the publication.

Mr. ROBBINS. I believe the Convention have decided to-day that they have done nothing for the last six or seven weeks. We have done more to-day, than we have done from the time we came here until to-day. Our work heretofore has been nothing at all and I do not approve of the expense of having a report of our work printed.

Mr. KING. I think it will be nothing but just to order the debates taken down by our reporter, printed. The Convention will recollect that when the subject of employing a reporter first came up in caucus, some of us opposed it pretty strongly. But some of the friends of the measure got the matter in such a shape as to do away the objection which many of us had, and our reporter was employed. Now it would be the most ridiculous thing we have done, after employing a reporter, to refuse to put those reports in print. Let those who were so anxious to have our proceedings reported be gratified in seeing their long speeches in print. "Hope deferred maketh the heart sick." Why cut off all hope of seing the great speeches of smart men upon this Constitution! For myself I would not make this speech for the whole five volumes which are proposed to be given to me.

Mr. COLBURN. I would be glad to give the gentleman a reasonable price for his speech, and take his five volumes of reports. (Laughter.)

Mr. BILLINGS. I offered an amendment to that resolution yesterday, providing that the surplus copies should be distributed among the several counties in proportion to their respective representation in the Legislature. I suggested that amendment, believing it would make the distribution more equitable throughout the State.

Mr. ROBBINS. I move to strike out the word "President" and insert "Secretary."

Mr. COLBURN. I am satisfied that our President will shrink from no responsibility we may impose upon him, and as he is my choice I am opposed to the amendment.

The amendments were not agreed to, and the resolution as originally introduced was adopted.

PAY OF MEMBERS, &C.

Mr. BILLINGS offered the following resolution:

"*Resolved*, That the President appoint a committee of three whose duty it shall be to ascertain what discount it will be necessary to make on the script issued to the members and officers of this Convention for mileage and per diem, for cash at this time, and that an additional amount be allowed to each equal to such discount."

The resolution was subsequently withdrawn, and Mr. COGGSWELL renewed it.

Mr. COGGSWELL. I am informed that the other Convention have passed a similar resolution, and after what we have done, that Convention ought to be good authority for anything.

Mr. PHELPS. I understand that they voted that resolution down.

Mr. COGGSWELL. Whether they voted it up or down I do not know, but if they have passed it, we ought to pass it, and if they have voted it down, we ought to vote it down—such is my faith in that authority. (Laughter.) We have followed the other Convention from the time of our first coming here, and I prefer now to follow them through to the end.

On motion of Mr. MANTOR, the resolution was laid on the table.

ENROLLING CONSTITUTION.

Mr. CLEGHORN offered the following resolution—

"*Resolved*, That the committee of Conference be instructed to employ a sufficient number of copy-

ists to enrol the Constitution, and have it prepared for authentication by members of this Convention early to-morrow morning."

Mr. COGGSWELL. I would enquire what method has been fixed upon, if any, for the authentication of the Constitution. Is it to be by the signatures simply of the President and Secretary, or by those of each member?

Mr. STANNARD. I would enquire if the gentleman would sign the Constitution if he had a chance.

Mr. COGGSWELL. I will tell the gentleman when it is presented to me. I never dodge when the time comes.

Mr. McCLURE. No particular arrangement has been adopted, that I know of.

The resolution was agreed to.

AUTHENTICATION OF THE CONSTITUTION.

Mr. COLBURN offered the following resolution—

"*Resolved*, That the President and Secretary of this Convention be authorized and empowered to authenticate the Constitution adopted by this Convention by signing the same in their official capacity."

Mr. COGGSWELL. I have no objection to that.

Mr. STANNARD. I move that the resolution be laid on the table.

The motion was agreed to.

Mr. KEMP offered the following resolution—

"*Resolved*, That the Constitution as formed by this Convention be authenticated by the signatures of each member of this Convention."

Mr. COLBURN. I move to lay the resolution on the table. I understand the committee of Conference have that matter under consideration.

The motion was agreed to.

SUPPLIES AND EXPENDITURES.

Mr. ALDRICH, from the committee on Supplies and Expenditures made the following report—

"Your committee have examined the following bills presented to them, and find said bills to be correct, and recommend that orders be drawn for the payment of the same:—

T. M. Newson & Co., for newspapers furnished the members and officers of this Convention	$481 87
Minnesots Dutch Zeitung, for newspapers furnished the members and officers of this Convention	61 00
Owens & Moore, for newspspers furnished and printing done for this Convention	1,566 78
Gustave Leue, for articles furnished the Convention as per bill rendered	30 85
Von Hamm, agent, for stationery furnished the members as per order of Convention	305 00
Von Hamm, for stationery furnished the Secretary as per order of Convention	52 95
	2,497 95

Mr. CLEGHORN. I would enquire of the Chairman who made the report, if he can tell us at what rate we are charged for newspapers? It strikes me that the sum reported is exhorbitant.

Mr. ALDRICH. I am assured by the publishers that they have charged the same that has always been charged to the Legislature, when they have furnished them with papers, and no more. They also state that they have to wait six, twelve, or eighteen months for pay, and that the charge is no more than will make them whole when they receive their pay.

The report was adopted.

The PRESIDENT here announced the following communication:

"CAPITOL, August 28, 1857.

Hon. ST. A. D. BALCOMBE, President:

SIR:—I have the honor to communicate to you the fact that the Convention over which I have the honor to preside has adopted the report of their committee of Conference without amendment or change.

Very respectfully,
Your ob't servant,
H. H. SIBLEY, President."

PUBLICATION OF JOURNAL.

Mr. CLEGHORN offered the following resolution, which was read, considered and agreed to—

"*Resolved*, That the Secretary of this Convention be instructed to prepare an exact copy of the Journal of this Convention, and that 2,000 copies be printed and disposed of in the same manner ss the Proceedings and Debates of the Convention—and the expense be defrayed in the same manner."

And then, on motion of Mr. LYLE, the Convention adjourned.

FORTY-SECOND DAY.

SATURDAY, August 29, 1857.

The Convention met at nine o'clock A. M.

The journal of yesterday was read and approved.

Mr. ALDRICH offered the following resolution, which was considered and adopted:

"*Resolved*, That the President of this Convention be and he is hereby authorized to audit the account of T. F. Andrews, the official Reporter of this Convention for reporting the Proceedings and Debates thereof when the same shall be written out, and prepared for publication, and that he grant his certificate or certificates thereof, attested by the Secretary of this Convention for the psyment of the same."

Mr. ALDRICH offered the following resolution, which was considered and agreed to—

"*Resolved*, That the President of this Convention be and he is hereby authorized to audit the account of Owens & Moore, the official printers of this body, for all printing they have been instructed to do hereafter—for this Convention, and grant his certificate or certificates thereof attested by the Secretary of this Convention for the payment of the same."

Mr. COGGSWELL offered the following resolution—

"*Resolved*, That in making up the expenses of this Convention, the President and Secretary be instructed to allow to each member and officer of the said Convention such additional sum as may be necessary to realize in cash the full amount of their per diem and milage."

Mr. C. said:—The resolution which I now offer is word for word, like the resolution which the other Convention passed yesterday. It does seem that it is nothing more than right we should receive our full pay. It is well known that it is insufficient to compensate us for our time, trouble and expense. So far as the equity and legality of the thing is concerned, I have no doubt about it at all, and I hope the resolution will be passed unanimously.

Mr. MANTOR. I am opposed to that resolution. I am opposed to it because I think our script in this end of the Capitol is worth twenty-five cents more than theirs. I have no doubt of that, and for my own part I am not willing to take less than one hundred cents on the dollar. I trust the Convention will not pass the resolution.

The PRESIDENT. The resolution having given rise to debate, lies over under the rules.

Mr. COGGSWELL. I move to suspend the rules so far as to allow the resolution to be considered now.

The motion was not agreed to.

Mr. DAVIS offered the following resolution:

"*Resolved*, That in case the Auditor and Treasurer refuse to recognize the certificates for services and compensation of the Convention holding its sessions in the west end of the Capitol, and especially that in favor of WILLIS A. GORMAN, that the President, ST. A. D. BALCOMBE, and L. A. BABCOCK, Secretary of this Constitutional Convention, be authorized to sign the same, and the said Auditor and Treasurer upon presentation of said certificates signed by said BALCOMBE and BABCOCK, as aforesaid, be, and are hereby requested to recognise said certificates."

Mr. SECOMBE moved to lay the resolution upon the table.

The motion was agreed to.

Mr. CLEGHORN submitted the following:

"*Resolved*, That any member of this Convention who may not be present to sign the Constitution this day, may sign the same in the office where it shall be deposited for safe keeping, at any time after the adjournment *sine die*, and before the first day of October next."

On motion of Mr. COLBURN, the resolution was laid on the table.

Mr. COLBURN offered the following resolution, and moved to suspend the rules to consider the same at the present time, viz:

"*Resolved*, That the President of this Convention be instructed, in auditing the account of the official reporter of this Convention, to allow him in addition to the compensation to which he shall be entitled under the resolution of July 18, 1857, employing him, such additional sum as may be necessary to realize in cash the full amount to which he shall be so entitled as aforesaid without discount."

The motion to suspend the rule was agreed to.

Mr. COLBURN. I do not know as it is necessary to say anything in regard to this resolution. It is well known that the Convention sitting in the other end of the Capitol have passed a similar resolution in regard to their reporter. Simple justice seems to require that we should be as liberal as they are.

The resolution was agreed to.

Mr. COGGSWELL'S resolution of yesterday, appointing a committee of three to ascertainthe rate of discount on the scrip issued for the per diem and mileage of members, coming up in order—

Mr. SECOMBE said—I hope the resolution will not be adopted. The act of the Territorial Legislature making an appropriation of $30,000 for paying the expenses of holding the Constitutional Convention, is definite upon

the point of compensation of members. It is provided that the members and officers of the Convention shall be entitled to the same pay as members and officers of the Legislative Assembly, and that the payment shall be made in a certain manner—by drafts drawn upon the treasury by the President and Secretary of the Convention. Now I trust the Convention will not attempt to legislate upon this matter, but will quietly receive what has been provided for them by law. If it should appear, upon the organization of the State government, that the members of the Convention had not been paid enough, I think we may rely upon the generosity of the future State.

Mr. NORTH. I would enquire, through the chair, if any member has a copy of that act of the Territorial Legislature?

Mr. SECOMBE. We have twice had an order of this Convention for the printing of two hundred copies of that act. We had a committee appointed to procure a certified copy of the act for the use of the Convention. A copy was obtained and sent to the printer, and yet, after all of our endeavors, we have not been able to procure it laid upon our tables. It seems as if there had been some determination that the act should not come into this Convention.

The resolution was not agreed to.

Mr. ALDRICH offered and put the following resolution:

"*Resolved*, That the thanks of this Convention be and are hereby tendered to the President, Secretary, Reporter, and other officers of this body, for the able, faithful and courteous manner in which they have respectively discharged their duties."

The resolution was unanimously adopted.

Mr. WILSON offered the following resolution:

"*Resolved*, That the President be instructed to appoint some suitable person or persons to translate the Constitution into the German, French, Sweedish, and Norwegian languages, and that the expenses thereof be paid out of the fund appropriated for defraying the expenses of this Convention."

Mr. McKUNE. I move to amend by including the Chippewa language, in order to allow those civilized Indians to read the Contitution. (Laughter.)

Mr. DAVIS. And the Winnebagoes.

Mr. MESSER. When they become civilized they will be able to read the English language.

Mr. COGGSWELL. I rise to a point of order. This resolution having given rise to debate, lays over under the rule.

The PRESIDENT. The chair holds the point of order well taken.

Mr. WATSON. I move to suspend the rules so far as to allow the resolution to be considered now.

The motion was agreed to, (two-thirds voting in favor thereof.)

Mr. McKUNE. I hope the resolution will not be passed. We are anxious as a party to do everything we can to poll a large vote this fall, and if we publish this evidence of our folly we shall lose a great many votes.

Mr. COLBURN. The gentleman's arguments of to-day and those of yesterday, do not seem to correspond.

Mr. McKUNE. We are married now—one flesh and blood, one soul and body.

Mr. WILSON. I believe this is the first time that I have come seriously in conflict with my friend upon my right (Mr. McKUNE.) He certainly has good grit, and maintains his consistency, but he is a little like the native of the forest, who stood so straight that he leaned over the other way. It follows as a matter of necessity, from what we have done, that we should pass this resolution.

The resolution was agreed to.

And then, on motion of Mr. MANTOR, the Convention took a recess of one hour.

At the expiration of the hour the Convention was called to order by the President.

Mr. WILSON offered the following resolution, which was read, considered and agreed to:

"*Resolved*, That JOHN H. GOWAN, Assistant Sergeant-at-Arms to the Convention, be allowed the sum of fifty dollars for extra services by him performed, and for sums of money by him, paid to procure necessary assistance in the performance of his duties as Assistant Sergeant-at-Arms."

Mr. ALDRICH offered the following resolution, which was read, considered and agreed to.

Resolved, That the President and Secretary of this Convention are hereby authorized and instructed to audit and draw orders to defray all contingent expenses which shall arise after the adjournment, and which have been authorized

during the session of the Convention, and not otherwise provided for."

THE CONSTITUTION ENROLLED.

Mr. GALBRAITH, from the joint committee of Conference, submitted their final joint report of the enrolled Constitution in writing as follows:

"The joint committee of the two Conventions appointed to agree upon and submit one Constitution to be submitted to the people of the State of Minnesota for ratification or rejection, would respectfully report, that, in accordance with the instructions to said committee, they have enrolled and now report a copy of the Constitution carefully compared, and identical with the copy heretofore reported by the committee and adopted by the two Conventions, are now ready for ratification by the Conventions.

M. SHERBURNE, *Chairman.*
L. K. STANNARD, *Sec'y.*
JOSEPH R. BROWN,
W. HOLCOMBE,
W. W. KINGSBURY,
THOS. J. GALBRAITH,
CYRUS ALDRICH,
CHARLES McCLURE."

The Constitution as thus reported enrolled, appears in the Appendix.

Mr. SECOMBE offered the following resolution:

"*Resolved*, That the enrolled report of the committee of Conference be adopted by this Convention as the Constitution of the State of Minnesota."

Mr. McCLURE. What occasion is there for such a motion? Did we not virtually do that yesterday?

The PRESIDENT. The report of the committee of Conference was substituted for the previous reports which have been heretofore adopted by the Convention.

The resolution was agreed to.

On motion of Mr. SECOMBE, the three resolutions, relating to the manner and time of authenticating the Constitution, which had been laid on the the table, were taken up for consideration.

The resolutions, as heretofore reported, were read.

Mr. BATES. I would enquire if the committee of Conference have made any recommendation as to the manner of authenticating the Constitution?

Mr. McCLURE. I understand that the other Convention intend to authenticate it by the signature of each member, and if any members are absent, that they will pass a resolution authorizing such members to add their names hereafter.

The resolution authorizing the authentication by the signature of each member, was adopted.

Mr. CLEGHORN'S resolution, authorizing absent members to sign the Constitution in the office of the Secretary of State, at any time before the first day of October being read—

Mr. COLBURN said:—Will it be possible to do that after the Constitution is deposited? If a member should go the Secretar'y office who is an entire stranger to the Secretary, he would have to prove his identity, even if he could get access to the Constitution. I do not think this Convention can control the Constitution after it is deposited with the Secretary.

Mr. STANNARD. There is a mutual understanding that a resolution of the like import to this, shall be passed by both Conventions.

Mr. MANTOR. I do not believe such a resolution will amount to anything. I do not believe the Secretary will allow individuals to sign the Constitution in that way. After it has gone out of the hands of the Convention it is no longer subject to the control of the Convention.

Mr. ALDRICH. In examining the reports of the Ohio Constitutional Convention, I find a resolution in these words:

"*Resolved*, That the foregoing Constitution be signed by the President and Secretary, and that the members now present proceed to sign the same in attestation thereof, and that the members who are absent have the privilege of signing it in the office of the Secretary of State at any time between this and the first day of September next."

I think there will be no difficulty in absent members signing it, whenever they may be in the city hereafter.

The resolution was agreed to.

Mr. STANNARD offered the following resolution, which was read, considered and agreed to:

"*Resolved*, That if this Constitution be adopted by the people, that the Governor of this Territory be, and he is hereby requested to have a copy thereof trauscribed on parchment, with the signatures attached, for preservation in the archives of State."

Mr. MANTOR offered the following resolu-

tion, which was read, considered and agreed to:—

"*Resolved*, That WM. SHELLEY, Messenger of this Convention, be allowed fifty dollars for extra services rendered to the same."

Mr. HAYDEN moved that after the President and Secretary had signed the Constitution, that the members should be called in alphabetical order to sign the same.

The motion was agreed to.

Mr. STANNARD offered the following resolution, which was read, considered and agreed to:

"*Resolved*, That the Sergeant-at-Arms of this Convention be allowed seventy-five dollars for extra services done for this Convention."

Mr. GERRISH offered the following:

"*Resolved*, That the members of this Convention, each, receive the sum of seventy-five dollars, as extra pay."

The resolution was rejected.

Mr. COGGSWELL. I move to re-consider the vote by which the resolution was rejected. We have already voted extra pay to certain officers of this Convention. Now under the act passed at the extra session, if we have the right to grant extra pay to any of the officers of this Convention, we have the right to grant extra pay to ourselves. I propose to go the whole figure. If the one is right, the other is right.

Mr. STANNARD. The resolutions we have passed, giving extra compensation, state that it is given in consideration of extra services, and extra expenses.

The resolution was not agreed to.

Mr. COGGSWELL offered the following resolution:

"*Resolved*, That the members of this Convention receive the sum of fifty dollars each, for extra services."

Mr. C. said: So far as I am concerned, I have no objection to allowing officers of this Convention extra pay, if they have performed extra services. They have, in my opinion, performed extra services; and, therefore, I do not object to the resolutions which have been passed. But while I admit that the officers of this Convention have performed extra services, I know that the members of the Convention have. I do not guess at that. During the whole of this warfare, from the time we came here at midnight, I know it has been a constant train of extra services—services which never have been performed by any Constitutional body, from the foundation of the government down to the present time. We came here at the dead hour of the night; we slept here night after night, and went hungry and tired as dogs; and not only that, but we have performed extra services in other respects. And it does seem to me that we are entitled to extra pay. For that reason, I hope we shall not show this favoritism to our officers—whose conduct has certainly been praiseworthy—and neglect to do justice to ourselves.

The PRESIDENT. The resolution having given rise to debate, will lie over one day.

Mr. STANNARD. I move a suspension of the rules, so far as to allow its consideration now.

The motion was not agreed to.

Mr. PERKINS moved that the Convention take a recess until half-past two o'clock, which motion was not agreed to.

Mr. NORTH. I would inquire how long it will be before it will be in order to proceed to sign the Constitution.

Mr. SECOMBE. I understand that the Secretary has sent for a sheet of parchment, on which to make the signatures.

And then, on motion of Mr. ROBBINS, the Convention took a recess until half-past two o'clock.

AFTERNOON SESSION.

The Convention was called to order pursuant to adjournment.

The President and Secretary of the Convention severally attached their signatures to the Constitution, after which the members of the Convention, as their names were called in alphabetical order, came forward and signed the same.

Mr. ROBBINS offered the following resolution:

"*Resolved*, That the sum of seventy-five dollars be and is hereby allowed to JOHN Q. A. WARD, for extra services as Assistant Secretary of this Convention."

Mr. COGGSWELL moved to amend by inserting after "WARD," the words, "and "also to each member of this Convention."

The amendment was not agreed to, and the resolution was adopted.

PAY OF MEMBERS AND OFFICERS.

Dr. DAVIS. I would inform this Convention that Mr. MILLS and myself just walked down into the Treasurer's office and presented our certificates. The Treasurer politely told us that they would not recognize certificates coming from this body. I make this statement to relieve members from the necessity of making a journey down there for nothing. I told him, however, we should be happy soon to put a good Republican in his place, who would recognize these certificates.

Mr. NORTH introduced the following resolution:

"*Resolved*, That the Convention respectfully request the Territorial Treasurer to pay all certificates of the members of either Convention, as well as those signed by H. H. SIBLEY, as President, and J. J. NOAH, as Secretary, as those signed by ST. A. D. BALCOMBE, as President, and L. A. BABCOCK, as Secretary."

I hope, said Mr. NORTH, that we, as members of this Convention, will continue to maintain our honor, and let the people of this Territory see the contrast between the two Conventions, if there is any, and if there is not any, then all is well.

Mr. FOSTER. I hope the resolution will be adopted. When the Constitutional Convention, composed of a majority of duly elected members thereof, sitting in this Hall, agreed to descend from their position, so far as to meet the seceding members and to appoint a committee of Conference to agree upon one Constitution, I say it was a part of the terms of that compromise, tacitly understood, that the other body should not avail themselves of the fact that the Territorial Treasurer was of their party, and that they would not control him, and refuse to pay the members and officers of this Convention. In violation of that tacit understanding, and in a spirit characteristic of all their transactions connected with this body, they have now instructed their Treasurer, as we have reason to think, to refuse to recognize the certificates of this Convention. The Secretary tells us not that "I" but that "we" refuse to recognize the certificates. Who is "we?" The Territorial Treasurer, and those behind him—the Democratic party, the power behind the throne. We, a majority, conceded everything. We agreed to meet them upon an equal footing, and all they gave in return was to say that their officers should do what they are bound by law to do. I am willing to go to the people upon the small issue they are raising, and the people will take care that the next Treasurer will pay the members and officers of their Constitutional Convention.

Mr. SECOMBE. I hope the resolution will not be adopted. This Convention has nothing whatever to do with the matter. There has been boys play, and fool's play enough at the other end of the Capitol about this subject. The legislature have provided the means of paying the members of the Constitutional Convention, and having provided just what shall be paid and just how it shall be paid, this Convention has no power to change the matter in the least. Now, gentlemen may think that by passing such a resolution as this, we will be taking the wind out of the sails of gentlemen in the other end of the capitol. We will do it more effectually by passing the matter over in silence. We will present to the officer of the Territory, whose duty it is to pay members their per diem and mileage, the proper certificates, authenticated in the proper manner, which the law says shall be sufficient evidence to the treasurer of the claim of each member, and let him and his party take the responsibility of refusing to pay them—a thing which they have announced officially that they will do. The Attorney General of the Territory, claming a seat in the west end of the Capitol, announces boldly, "I know the Treasurer of this Territory will not recognize the organization over which Mr. BALCOMBE presides." How does he know it? He is the legal adviser of that Treasurer, and there is a pretty violent presumption that if he "knows" it, it is because he has beaten it into the Treasurer, and has enforced the instructions, given when the resolution was passed in the other end of the Capitol advising all officers to refuse to recognize us. I hope we shall go about our business and not bother with his boy's play which was commenced at the other end.

Mr. NORTH. I hope the resolution will pass. I presume there is not a member of this Convention but what regards the other Convention as illegal; as a Convention not properly organized for framing a Constitution for Minnesota. But this Convention prefers

anarchy to confusion; that there should be one Constitution submitted to the people, because it is for their interest, in a social, in a pecuniary, and in every point of view.

For that reason we have condescended to treat with them as equals, under an implied and express understanding that the members of both bodies should have their pay. Now I am in favor of this Convention carrying out that understanding, in its full spirit, and to the letter. However meanly others may act, I trust this Convention will continue to do as heretofore, and act upon honorable principles, and see that nothing mean creaps into our transactions.

Mr. McCLURE. I am in favor of this resolution from the simple fact that we entered into the arrangement in good faith, having a majority of all the members elected to the Constitutional Convention. I am in favor of it, from the fact that we are to adjourn in a short time, and it may be possible that the members holding sessions in the other end of the Capitol may circulate reports that we, the majority, had ordered the Treasurer not to pay them. [Laughter.] As we are the majority and they the minority, we ought to spread the fact upon the record that we are in favor of paying them. Although we think a great many of their members bogus, yet, at the same time by joining in the appointment of a conference committee, and by passing the same Constitution, we have recognized them, as well as they us.

Now, I have ascertained satisfactorily, at least so far as my own judgment is concerned, why the President of the Convention in the other end of the Capitol (Mr. SIBLEY,) has so tenaciously refused to sign the same identical paper, with the President of this body, (Mr. ST. A. D. BALCOMBE.) It will be remembered that the mother of the PRESIDENT of this Convention has made of him what no earthly power could make of the presiding officer in the other end of the Capitol—has made of him a "Saint." Now it may be that the PRESIDENT in the other end, has great and reverential awe for the name "Saint" and that he would not place his name upon the same paper, feeling his littleness and nothingness. Now sir, I must confess that I admire his taste; that it would not look well; that it would be undignified and irreverential to put the name "Sibley" before the name "Saint;" and to place it after, would be an awful fall from "Saint" to "Sibley," [laughter], and I have actually come to the conclusion, if I were in his place, I would do exactly as he has done.

Under all the circumstances, therefore, I think it is right that we shall pass a resolution informing our friends in the other end of the Capitol that we are willing that they should have their pay.

Mr. MANTOR. I hope the resolution will not pass. I am convinced that the compromise committee from the other Hall, or some of them, at least, intend to carry out the common understanding which was had when that committee was appointed,—that the certificates from both wings of the Capitol should be recognized. It is not ten minutes since Judge SHERBURNE proclaimed publicly that all the members of this Convention are of right entitled to their pay, and that he should denounce any other course. I do not feel that there is any great necessity for the passage of this resolution.

Mr. COLBURN. Before I vote, I desire to know the correctness of certain statements which have been made here, and elsewhere. It has been stated by the gentleman from Rice county (Mr. NORTH,) and by others, that there was a general understanding upon the part of the committee of Conference that there would be no objection to members of this Convention receiving their pay, and that their certificates would be recognized. Now if there was an agreement or understanding, well founded in that committee, though not exactly put in form, that the Treasurer would recognize the certificates signed by our President and Secretary, then it may be that this resolution is proper enough. If there has been no understanding of that kind, nothing to found this resolution upon, I say it should not be passed. They cannot, with any degree of consistency, accuse us of bad faith unless there has been an agreement of that kind to fulfill. If they accuse us of bad faith in this matter, without an agreement, they will also in other matters. If there has been an agreement, I would like to have the members of the committee tell us what it was.

Mr. WILSON. I hope no such resolution

will pass. It is a fact, well understood by us here, that the Territorial Treasurer has refused to recognize our certificates. I am willing to leave it there. It is but a continuation of the consummate meanness which has characterised the other body, ever since the organization of this Convention. I am willing to go before the people with the issue they present. I hope the resolution will be laid upon the table, and that we shall treat the whole thing with the contempt it deserves.

Mr. NORTH. I wish to understand from the committee if there was any such agreement?

Mr. GALBRAITH. As to whether this resolution pass or not, I care not. There is connected with this subject, what I consider a matter of honor, and as sacred as the marriage vow. It is true, fully true, that in the discussion of this subject by the committee, with the intention of inserting a provision in reference to it, into the Schedule of this Constitution, that the committee found such a course impracticable. That there was, in that committee, an honorable understanding that there should be no question raised as to the paying the members, and all the expenses of this Convention, I assert here. It is known to every member of that committee, and in my opinion, that agreement is more sacred than if it had been in writing. To violate it, is a sacrifice of plighted honor. I shall never, so help me God, appeal to the Treasurer of this Territory to decide whether I have served in this Convention or not. My constituents will decide that for me, and our constituents are the proper parties to appeal to. They will see that a proper person is placed there to do their will. I ask not the charity of that body. If they choose to violate as solemn and as honorable a compact as could be made, let them do it, and let them shoulder the responsibility. The voice of the press and the voice of living men will give a true history of the transaction and of the facts which have transpired here. We are ready for the battle. If the compact is to be broken on a quibble, let it be broken, and we will go to the country on the issue. We are ready loaded to the muzzle. I ask nothing but what is fair, and I know this Convention will not. We have acted honorably. Every letter of the compact has been fulfilled on our part, to the dot of an "i," and the cross of a "t." There is the Constitution reported by the joint committee of the two bodies. There is the fact staring the world in the face, that we are members of this Constitutional Convention. I wish to cast reflections upon no individuals of that body. I will not do so. And I do not believe that one member of the committee upon the part of either body will ever, in word or deed, do any act which will violate the sacred, honorable compact, which was made between them.

Mr. NORTH. Mr. PRESIDENT: It seems to me that this resolution has been discussed in rather a singular manner. I am happy to hear it, however, for it is a matter that needs to be talked over; but I had not supposed it would produce the discussion which has been predicated upon it. I fully agree with the gentleman from Scott county as to the character of the conduct of the seceding members. But the object of the resolution is not to cast censure, or encomiums upon anybody, but to put this Convention right upon the record, and to show that they are in favor of keeping good faith, regardless of what others may do. We are told that this arrangement about pay was fairly understood as part of the agreement by which one Constitution has been produced and signed. I want simply to carry out that agreement, and then if the other party to this agreement wish to break faith and act meanly in the premises, let them have the full credit of it. This Convention stands fair in all their proceedings, and that their fidelity and good faith in this matter may stand fair upon the record, I desire this resolution to pass.

Mr. WILSON. Mr. PRESIDENT: I think my friend from Rice county does not look at this matter with as much discrimination as he usually displays. Now, sir, what power have we to order a Territorial Treasurer to receive or not to receive any paper whatever? There are the laws of this Territory, regulating the duties of all Territorial officers. By these laws the whole Territory is governed. There stands the whole of this matter.

As to putting ourselves upon the record, we are upon the record now, sir. We have already acted in such a manner as to be well understood,

There is a law of the Territorial Legislature, as I am informed by those having correct knowledge of the fact, which makes these certificates evidence of debt. The resolution then, which has been adopted in the other wing of the Capitol can amount to nothing more than an expression of the wish of those insisting upon it; and when in obedience to that resolution, certain Territorial officers refuse to recognize our certificates, it shows only that those officers are the creatures of that Convention, or they would not do their bidding in violation of law. Is the Territorial Treasurer in any way responsible to this body? I say he is not. I do not wish to impute anything wrong to the Territorial Treasurer. I never saw the man; but I will say, with reference to this compromise and his connection with it, that I expected punic faith when I went into it. But for men to act meanly in a case where their meanness is sure to rebound and rest upon their own heads—I confess I did not expect that.

A majority of the members sitting in the other end, know that they are not the legal Constitutional Convention of Minnesota.

Many of them came in here and owned it themselves, that they were some twelve or fifteen less in number than we; and they put the legality of their acts upon the ground, that a Constitution formed by any number of delegates—if not more than ten in number—and ratified by a majority of the people, becomes a legal Constitution. But the initiative of the compromise was taken by them. It was upon their urgent solicitation that we went into conference with them. They urged and solicited outside and inside. They insisted and plead with us, for the love of the powers above, and the fear of ruin, to unite with them upon one Constitution, that all might be right. We acquiesed. We gave them a committee. That committee have agreed upon one Constitution, and we have adopted and signed it. I am credibly informed sir, and who does not know, that where a Constitutution is adopted between two parties the very act of its adoption shows the equal membership of both parties. And now for them to come up at the last with such consummate childish meanness, and talk about not paying members sent here by the people of Minnesota; I will not follow after them sir. I shall never offer to the Territorial Treasurer my certificate. I will go home and tell my constituents, who sent me here, of this contempt of the law and of them; how I was not recognized as a member of this Convention —not entitled to pay; and I will rest it there. I hope the resolution may not be passed.

A point of order was here interposed under the rule forbidding the discussion of a proposition the same day it is offered, and, on motion by Mr. STANNARD, the rule was suspended so as to admit of the consideration of of the resolution.

Mr. COGGSWELL. Mr. PRESIDENT: I am remarkably cool, for me, at the present time; and it seems to me as though there was no particular necessity for our getting excited in regard to this matter at all. For my part, I am opposed to the passage of this resolution, first; for the reason, that I do not think it would amount to anything if it were passed. It is simply attempting to instruct an officer to perform what the law requires of him; and such attempts have been voted down by this Convention heretofore. Secondly; as a member of this Convention, I do not expect to derive my pay from the Treasury of Minnesota Territory.

I know there was a tacit understanding with referenee to this matter of pay between the members of the Conference committee; but I care nothing about that understanding or agreement. The gentleman from Scott County (Mr. GALBRAITH) and other gentlemen complain that that agreement has been violated. Now, Mr. PRESIDENT: if that agreement has been violated, it is just what we might expect from that quarter. It was only what has been continually practiced by that body ever since the thirteenth day of last July. It is not the first time they have violated agreements and openly insulted parties treating with them. Sir, you remember, on a certain occasion, they agreed not to attempt to organize this Convention until twelve o'clock M., on the thirteenth of July inst., and we know how they violated that agreement, by coming in and attempting to organize nineteen minutes before the time. We know also, how one of our members has been most brutally assaulted by one of them. We know this is not the one-hundredth part of the amount of insult that has been heaped upon

this Convention; and it seems to me that it comes rather late in the day for gentlemen to undertake now to assert their manhood and say that they will not yield themselves to be insulted any longer.

Sir, from the first, I have had no confidence in that body of men. I can have no confidence in any of their views—no confidence in any of their stool-pigeons, in any of the men under their control. Sir, I would scorn to ask their Treasurer for my pay—ask such a man to do his duty! But if we are to derive our pay from the Territorial Treasury—a thing which I deny—I say the act of the Legislature is very plain and explicit in regard to what the duty of the Treasurer is; and any instructions we might give him would amount to nothing. The fifth section of that act says:

"The compensation herein provided for the members, officers, and Secretaries, shall be certified by the presiding officer, and attested by the Secretary."

This has been done, sir. Our certificates have been signed by the President and attested by the Secretary, "as well as all claims for "stationery, printing, and all other incidental "expenses, which said certificates, when so "certified, shall be sufficient evidence to the "Territorial Treasurer of each persons claim."

Now, sir, that is the law. These certificates having been signed by the President of this Convention, and attested by the Secretary here, whenever they are presented to the Territorial Treasurer, the law makes it his duty to recognize and pay them, and if he sees fit to refuse to perform the duty thus imposed upon him by law, then I want nothing better wherewith to go before the people of the Territory, to show him associated with those in the other end of the building in this low, mean, contemptible piece of conduct. Sir, it will strengthen the Republican ticket every where in this Territory; it will add immensely to the ranks of the Republican party. And then, if, with all this, we do our duty—if we select proper men and place them before the people for our Representatives in Congress, our rights will come, at last, to be respected, and we shall derive our pay on these certificates, not in the paper-rags of the Territorial Treasury, but in the gold and silver of the Federal Treasury; for, in my judgment, the Congress of the United States, knowing these facts, would not follow the example of this illustrious Territorial Treasurer, and refuse to audit and pay the accounts of members here.

It is for these reasons, Mr. PRESIDENT, that I say, if these men want to repudiate the claim for compensation of the members of this Convention, and violate the tacit understanding and agreement made with our Convention, I am perfectly ready and perfectly willing, if they take the responsibility, to herald the fact to the people, who are the ultimate arbiters and judges of this matter.

That is the way I feel. Hence I can see no necessity of our passing any resolution in the case. If the Territorial officers do not see fit to regard the law, they will not regard our instructions.

The other body have said we did not recognize them. I have not recognized them. I have been opposed to this conference from the very beginning. As an individual, I took the responsibility of that course of action, and asked no man to share it with me. I have endeavored to take a straight forward course since I came here. I have endeavored to discharge my duty under the law. I stand here with a clear conscience, and a few dollars cannot now cause me to change my mind.

I hope every member of this Convention will, at the present time, assert so much of the instinctive dignity of men as to say nothing. If the other party want to act the dog, let them do it, but, for God's sake, let us not stoop to the same degrading level with them. These are my views, and I make no bones about expressing them.

Mr. McCLURE. Mr. PRESIDENT: I rise to request my friend from Rice county, (Mr. NORTH,) to withdraw his resolution, and let us have no more discussion upon it. There is no question about the law giving the right of members of both bodies their pay.

Mr. NORTH. I should be most happy to accommodate my friend from Goodhue, Mr. PRESIDENT, if I did not think it involved a question of some importance. There has been a compromise, which has been fairly entered into, and this resolution is simply saying to the other party, that we propose to take no advantage by departing from the strict line of the agreement we have made

with them, notwithstanding their course, as well as the fact that we are obliged to regard a large number of them as bogus members.

I would respectfully suggest again, Mr. PRESIDENT, that nearly all the speeches made upon this resolution have been as wide of its object as they could be. It does seem to be a matter of some consequence that we should put ourselves right upon the record, and show our purpose to maintain good faith in this matter. If gentlemen differ with me, and are determined that the resolution shall not go upon the record, let them vote it down.

[Question, question.]

It seems to me, Mr. PRESIDENT, that after listening to half-hour speeches in opposition, I might be heard in explanation. [Go on.]

Mr. PHELPS. Mr. PRESIDENT: I hope the gentleman will go on with his remarks.

Mr. NORTH. I do not wish to go on.

Mr. COLBURN. Mr. PRESIDENT: There was one remark made by the gentleman on my left, which I do not understand. I understood him to say there was no member of the Conference committee from the other Convention, disposed to act in bad faith. If I understood the remark, I have this to say: I want gentlemen to remember, that on yesterday afternoon, a resolution was introduced by Gov. GORMAN, as insulting toward every member of this body as it well could be. It was simply this: Advising the Treasurer to acknowledge and pay our certificates, provided that we should first go and get Mr. SIBLEY to sign them. Gentlemen should also bear in mind this fact, that Judge SHERBURNE, a man whom we have all looked upon as one of the most worthy members of that body, stood up and stated that he was in favor of the substance of GORMAN's resolution. Yet we have been told, that no member of that joint committee is disposed to act in bad faith. I do not wish to occupy time; but I would have gentlemen consider these facts; that men who would seem fair and honorable in their personal correspondence with us, are willing, on occasion, to treat us in the most insulting manner.

Mr. FOSTER. Mr. PRESIDENT: I heard the remark of Judge SHERBURNE. He represented himself in favor of the substance, thought the intention good, but did not like the terms in which it was expressed.

Mr. PERKINS. Mr. PRESIDENT: I heard the same remark. The impression I received was, that Judge SHERBURNE was in favor of the substance of that resolution so far as it would intimate, that we ought to receive our pay as well as them. The idea was, that they should, by some appropriate resolution, intimate to the officers holding the purse, that the certificates of the members of this Convention should be recognized.

A VOICE. I would ask whether the resolution was passed.

Mr. PERKINS. I understand the resolution did not pass.

Mr. NORTH'S resolution was then adopted on a division—affirmative twenty, negative, fifteen.

Mr. FOSTER. Mr. PRESIDENT: I wish to offer the following preamble and resolution at this time:

"WHEREAS, When this Constitutional Convention, embracing a majority of the duly elected delegates, agreed to meet in conference with the seceding minority Convention, in the adoption of one Constitution, it was part of the terms of compromise, fairly understood, that the Democratic accounting officers should not refuse, as had been threatened, to acknowledge and pay the members and officers of this Convention;

"AND WHEREAS, It appears, on the testimony of members of this body, that the Treasurer of the Territory, G. W. ARMSTRONG, refuses, in violation of law, to pay the certified accounts of the members and officers of this Constitutional Convention, on the ground alleged by him to members of this Convention, that 'we (to quote his own words) do not recognize those certificates;' therefore, in view of these facts,

"*Resolved*, That the violation of honor and faith on the part of the Democratic minority Convention, implied by this action of their creature, the Territorial Treasurer, should receive, and we doubt not will receive, the condemnation of all honorable men; and we appeal to the people of Minnesota to rectify the wrong of this action of a partizan Territorial officer, the appointee of a partizan Governor, acting under the influence of a partizan Convention."

On motion of Mr. COGGSWELL, the preamble and resolution were indefinitely postponed.

FINAL ADJOURNMENT.

Mr. SECOMBE moved that the Convention adjourn, *sine die*.

Mr. ALDRICH suggested the propriety of closing the proceedings of the Convention with prayer, and called upon the delegate

from Mower county, (Mr. PHELPS) to perform that service.

The PRESIDENT desired to be indulged in a few remarks, before the final adjournment, and said—

GENTLEMEN OF THE CONVENTION:—I feel very much gratified at the final result of our deliberations. I desire, before we finally adjourn, to congratulate you upon your success in bringing about what is to my mind a very much to be desired result of our labors which are now brought to a close. I claim, and I believe it is generally conceded, that the credit which is due to this result which we have just accomplished—that of framing one Constitution, and one Constitution only—belongs to this body; that to this body is due the credit of having accomplished this much desired end, and that it is due to this body alone. That from the first, a persistent effort and endeavor has been made on the part of the other Convention, not to have this Territory form itself into a State and go into the Union, is a fact that many have seen and every man in the State has felt; and that their effort has failed is certainly a source of congratulation. Certainly this is something for us to rejoice over; for the reason that our every interest, pecuniary, social and moral, demand it; the great interest of the people demand it; the interests of every class of people demand that we should shake off our Territorial form of government at this time, and as soon as possible, become one of the States of the Union. The greater number of individuals composing the other part of the Convention were desirous that this object should not be attained. That they desired to defeat the wish of the people in this matter, is perfectly evident and plain to every member of this Convention, and it has become so to the people of this Territory. Had that Convention persisted in its original design of framing a Constitution, and we another, neither would have been accepted by the people. That the end which has been finally accomplished has been accomplished by the earnest and unwearied efforts of each and all of the members of this Convention, is also known to the people as well as to themselves. This object is accomplished; and I have taken this occasion to congratulate you upon the accomplishment of this much desired end. But I will not extend my remarks, for I am aware of the impatience of members. I know that each and every one must be very desirous of coming to a final adjournment and returning to their families.

The session has seemed to be a long one, though not, in fact, very long. Certainly it has not been as long as it would have been, had all the members met with us; neither has it been as long a session as Constitutional Conventions usually hold. In one State I remember a Constitutional Convention of nine months' duration. In other States I could name, they have sat four, five and six months. Hence we might even congratulate ourselves upon bringing our labors to a close in a much shorter time than Constitutional Conventions usually complete their work.

I cannot but return my warmest personal thanks to members, one and all, for their continued and cordial assistance and support in the discharge of the duties of this Chair. When I first assumed them I requested assistance in the performance of these duties, and that request has been granted to the fullest extent, and always in a manner most grateful to my own feelings.

I am constrained also to offer my congratulations upon the general harmony and good feeling which has been maintained throughout the proceedings of this Convention to an unusual extent. It would be very natural to suppose that, under the peculiar circumstances in which we have been placed—in the midst of a most uncertain state of affairs—under the depressions of uncertainty as to what would be the result of our session—taking these into consideration, it may well be said, that peace and harmony have reigned in this Convention to an unusual extent.

In conclusion, gentlemen of the Convention, my best wishes are with you all—now and forever. May you all arrive safely at home, and find each and every member of your several families alive and in good health.

Again, gentlemen, I tender to you all my sincere thanks for your most considerate regards, which have constantly sustained me in the discharge of the delicate and responsible duties of this Chair.

And then—after prayer by the Rev. BOYD PHELPS, a delgate from Mower county—

The Convention adjourned *sine die*.

APPENDIX.

ORGANIC ACT

OF THE

TERRITORY OF MINNESOTA.

SEC. 1. *Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*: That from and after the passage of this Act, all that part of the Territory of the United States which lies within the following limits to wit: Beginning in the Mississippi River at the point where the line of forty-three degrees and thirty minutes of north latitude crosses the same, thence running due west on said line, which is the northern boundary of the State of Iowa, thence southerly along the western boundary of said State, to the point where said boundary strikes the Missouri River; thence up the middle of the main channel of the Missouri River to the mouth of the White Earth River; thence up the middle of the main channel of the White Earth River to the boundary line between the possessions of the United States and Great Britain; thence east and south of east along the boundary line between the possessions of the United States and Great Britain to Lake Superior; thence in a straight line to the northernmost point of the State of Wisconsin in Lake Superior; thence along the western boundary line of said State of Wisconsin to the Mississippi River, thence down the main channel of said river to the place of beginning, be, and the same is hereby erected into a temporary Government by the name of the Territory of Minnesota; *Provided*, that nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said Territory into two or more Territories, in such manner and such times as Congress shall deem convenient and proper, or from attaching any portion of said Territory to any other State or Territory of the United States.

SEC. 2. *And be it further enacted*, That the executive power and authority in and over said Territory of Minnesota, shall be vested in a Governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the President of the United States. The Governor shall reside within said Territory, shall be Commander-in-Chief of the Militia thereof, shall perform the duties and receive the emoluments of Superintendent of Indian Affairs; he may grant pardons for offences against the laws of said Territory, and reprieves for offences committed against the laws of the United States until the decision of the President of the United States can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of said Territory, and shall take care that the laws be faithfully executed.

SEC. 3. *And be it further enacted*, That there shall be a Secretary of said Territory, who shall reside therein, and hold his office for four years, unless sooner removed by the President of the United States; he shall record and preserve all the laws and proceedings of the Legislative Assembly hereinafter constituted, and all the acts and proceedings of the Governor in his Executive Department; he shall transmit one copy of the laws and one copy of the Executive proceedings, on or before the first day of December in each year to the President of the United States, and at the same time two copies of the laws to the Speaker of the House of Representatives, and the President of the Senate, for the use of Congress. And in case of the death, removal, resignation, or necessary absence of the Governor from the Territory, the Secretary shall be, and he is hereby, authorized and required to execute and perform all the duties of the Governor during such vacancy or necessary absence, or until another Governor shall be duly appointed to fill such vacancy.

SEC. 4. *And be it further enacted*, That the legislative power and authority of said Territory shall be vested in the Governor and a Legislative Assembly. The Legislative Assembly shall consist of a Council and House of Representatives. The Council shall consist of nine members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The House of Representatives shall, at its first session, consist of eighteen members, possessing the same qualifications as prescribed for members of the Council, and whose term of service shall continue for one year. The number of Councillors and Representatives may be increased by the Legislative Assembly from time to time, in proportion to the increase of population: *Provided*, That the whole number shall never exceed fifteen Councillors and thirty-nine Representatives. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts, for the election of the Council and Representatives, giving each section of the Territory representation in the ratio of its population, Indians excepted, as nearly as may be. And the members of the Council and of the House of Representatives shall reside in and be inhabitants of the district for which they may be elected respectively. Previous to the first election the Governor shall cause a census or enumeration of the inhabitants of the several counties and districts of the Territory to be taken, and the first election shall be held at such time and places, and be conducted in such manner, as the Governor shall appoint and direct; and he shall, at the same time, declare the number of members of the Council and House of Representatives to which each of the counties or districts shall be entitled under this Act. The number of persons authorized to be elected having the highest number of votes in each of said Council Districts for members of the Council, shall be declared by the Governor to be duly elected to the Council; and the person or persons authorized to be elected, having the greatest number of votes for the House of Representatives, equal to the number to which each county or district shall be entitled, shall also be declared by the Governor to be duly elected members of the House of Representatives: *Provided*, that in case of a tie between two or more persons voted for, the Governor shall order a new election to supply the vacancy made by such tie. And the persons elected to the Legislative Assembly shall meet at such place on such day as the Governor shall appoint; but thereafter, the time, place, and manner of holding and conducting all elections by the people, and the apportioning of the representation in the several counties or districts to the Council and House of Representatives according to the population, shall be prescribed by law, as well as the day of the commencement of the regular session of the Legislative Assembly; *Provided*, That no one session shall exceed the term of sixty days.

SEC. 5. *And be it further enacted*, That every free white male inhabitant above the age of twenty-one years, who shall have been a resident of said Territory at the time of the passage of this Act, shall be entitled to vote at the first election, and shall be eligible to any office within the said Territory; but the qualifications of voters, and of holding office, at all subsequent elections, shall be such as shall be prescribed by the Legislative Assembly: *Provided*, That the rights of suffrage, and of holding office, shall be exercised only

by citizens of the United States, and those who shall have declared, on oath, their intention to become such, and shall have taken an oath to support the Constitution of the United States, and the provisions of this act.

SEC. 6. *And be it further enacted*, That the Legislative power of the Territory shall extend to all rightful subjects of legislation, consistent with the Constitution of the United States and the provisions of this Act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the land or other property of residents. All the laws passed by the Legislative Assembly and Governor, shall be submitted to the Congress of the United States, and if disapproved, shall be null and of no effect.

SEC. 7. *And be it further enacted*, That all township, district and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the Governor and Legislative Assembly of the Territory of Minnesota. The Governor shall nominate, and, by and with the advice and consent of the Legislative Council, appoint officers not herein otherwise provided for; and in the first instance the Governor alone may appoint all said officers, who shall hold their offices until the end of the next session of the Legislative Assembly.

SEC. 8. *And be it further enacted*, That no member of the Legislative Assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, except Postmaster, shall be a member of the Legislative Assembly, or shall hold any office under the Government of said Territory.

SEC. 9. *And be it further enacted*, That the Judicial power of said Territory shall be vested in a Supreme Court, District Courts, Probate Courts, and in Justices of the Peace. The Supreme Court shall consist of a Chief Justice and two Associate Justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of Government of said Territory annually, and they shall hold their offices during the period of four years. The said Territory shall be divided into three Judicial Districts, and a District Court shall be held in each of said Districts by one of the Justices of the Supreme Court, at such times and places as may be prescribed by law; and the said Judges shall, after their appointment, respectively reside in the Districts which shall be assigned them. The jurisdiction of the several Courts herein provided for, both appellate and criminal, and and that of the Probate Courts, and of Justices of the Peace, shall be as limited by law: *Provided*, that the Justices of the Peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said Supreme and District Courts respectively, shall possess chancery as well as common law jurisdiction. Each District Court, or the Judge thereof, shall appoint its Clerk, who shall also be the register in chancery, and shall keep his office at the place where the Court may be held. Writs of error, bills of exception and appeals, shall be allowed in all cases from the final decisions of said District Courts to the Supreme Court under such regulations as may be prescribed by law, but in no case removed to the Supreme Court, shall trial by Jury be allowed in said Court. The Supreme Court, or the Justices thereof, shall appoint its own Clerk, and every Clerk shall hold his office at the pleasure of the Court for which he shall have been appointed. Writs of error, and appeals from the final decisions of said Supreme Court shall be allowed, and may be taken to the Supreme Court of the United States, in the same manner and under the same regulations as from the Circuit Courts of the United States, where the value of the property, or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; and each of the said District Courts shall have and exercise the same jurisdiction, in all cases arising under the Constitution and laws of the United States, as is vested in the Circuit and District Courts

of the United States; and the first six days of every term of said Courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said Constitution and laws; and writs of error and appeal in all such cases shall be made to the Supreme Court of said Territory, the same as in other cases. The said Clerk shall receive, in all such cases, the same fees which the Clerks of the District Courts of the late Wisconsin Territory received for similar services.

SEC. 10. *And be it further enacted*, That there shall be appointed an Attorney for said Territory, who shall continue in office for four years, unless sooner removed by the President, and who shall receive the same fees and salary as the Attorney of the United States for the late Territory of Wisconsin received. There shall also be a Marshal for the Territory appointed, who shall hold his office for four years, unless sooner removed by the President, and who shall execute all processes issuing from the said Courts, when exercising their jurisdiction as Circuit and District Courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees, as the Marshal of the District Court of the United States, for the late Territory of Wisconsin,; and shall in addition be paid two hundred dollars annually as a compensation for extra services.

SEC. 11. *And be it further enacted*, That the Governor, Secretary, Chief Justice, and Associate Justices, Attorney and Marshal, shall be nominated, and, by and with the advice and consent of the Senate, appointed by the President of the United States. The Governor and Secretary to be appointed as aforesaid shall, before they act as such, respectfully take an oath or affirmation, before the District Judge, or some Justice of the Peace, in the limits of said Territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the Chief Justice or some Associate Justice of the Supreme Court of the United States, to support the Constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken shall be certified by the person by whom the same shall have been taken, and such certificates shall be received and recorded by the said Secretary among the executive proceedings; and the Chief Justice and Associate Justices, and all other civil officers in said Territory, before they act as such, shall take a like oath or affimation before the said Governor or Secretary, or some Judge, or Justice of the Peace of the Territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same, to the Secretary, to be by him recorded as aforesaid; and afterwards the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. The Governor shall receive an annual salary of fifteen hundred dollars as Governor, and one thousand dollars as Superintendent of Indian Affairs. The Chief Justice and Associate Justices shall each receive an annual salary of eighteen hundred dollars. The Secretary shall receive an annual salary of eighteen hundred dollars. The said salaries shall be paid quarter-yearly, at the Treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the sessions thereof, and three dollars each for every twenty miles travel in going to and returning from the said sessions, estimated according to the nearest usually traveled route. There shall be appropriated, annually, the sum of one thousand dollars, to be expended by the Governor to defray the contingent expenses of the Territory; and there shall also be appropriated, annually, a sufficient sum, to be expended by the Secretary of the Territory, and, upon an estimate to be made by the Secretary of the Treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the Secretary of the Territory shall annually account to the Secretary of the Treasury of the United States for the manner in which the aforesaid sum shall have been expended.

SEC. 12. *And be it further enacted*, That the inhabitants of the said Territory shall be entitled to all the rights, privileges and immunities heretofore granted and secured to the Territory of Wisconsin and to its inhabitants; and the laws in force in the Territory of Wisconsion at the date of the admission of

the State of Wisconsin, shall continue to be valid and operative therein, so far as the same be not incompatible with the provisions of this Act, subject, nevertheless, to be altered, modified, or repealed, by the Governor and legislative assembly of the Territory of Minnesota; and the laws of the United States are hereby extended over and declared to be in force in said Territory, so far as the same, or any provision thereof, may be applicable.

SEC. 13. *And be it further enacted*, That the legislative assembly of the Territory of Minnesota shall hold its first session at St. Paul; and at said first session the Governor and legislative assembly shall locate and establish a temporary seat of government for said Territory, at such place as they may deem eligible; and shall, at such time as they shall see proper, prescribe by law the manner of locating the permanent seat of government of said Territory by a vote of the people.—And the sum of twenty thousand dollars, out of any money in the Treasury not otherwise appropriated, is hereby appropriated and granted to said Territory of Minnesota, to be applied, by the Governor and legislative assembly, to the erection of suitable public buildings at the seat of government.

SEC. 14. *And be it further enacted*, That a Delegate to the House of Representatives of the United States, to serve for the term of two years, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the Delegates from the several other Territories of the United States to the said House of Representatives. The first election shall be held at such times and places, and be conducted in such manner, as the Governor shall appoint and direct; and at all subsequent elections, the times, places, and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the Governor to be duly elected, and a certificate thereof shall be given accordingly.

SEC. 15. *And be it further enacted*, That all suits, process, and proceedings, civil and criminal, at law and in chancery, and all indictments and informations, which shall be pending and undetermined in the courts of the Territory of Wisconsin, within the limits of said Territory of Minnesota, when this Act shall take effect, shall be transferred to be heard, tried, prosecuted and determined in the district courts hereby established, which may include the counties or districts where any such proceedings may be pending. All bonds, recognizances, and obligations of every kind whatsoever, valid under the existing laws within the limits of said Territory, shall be valid under this act; and all crimes and misdemeanors against the laws in force within said limits may be prosecuted, tried and punished in the courts established by this act; and all penalties, forfeitures, actions, and causes of action, may be recovered under this act, the same as they would have been under the laws in force within the limits composing said Territory at the time this act shall go into operation.

SEC. 16. *And be it further enacted*, That all justices of the peace, constables, sheriffs, and all other judicial and ministerial officers, who shall be in office within the limits of said Territory when this act shall take effect, shall be, and they are hereby, authorized and required to continue to exercise and perform the duties of their respective offices as officers of the Territory of Minnesota, temporarily, and until they, or others, shall be duly appointed and qualified to fill their places in the manner herein directed, or until their offices shall be abolished.

SEC. 17. *And be it further enacted*, That the sum of five thousand dollars be, and the same is hereby, appropriated, out of any moneys in the Treasury not otherwise appropriated, to be expended by and under the direction of the said Governor of the Territory of Minnesota, in the purchase of a library, to be kept at the seat of government, for the use of the Governor, Legislative Assembly, Judges of the Supreme Court, Secretary, Marshal, and Attorney of said Territory, and such other persons, and under such regulations as shall be prescribed by law.

SEC. 18. *And be it further enacted*, That when the lands in the said Territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said Territory shall be, and the same are hereby, reserved for the purpose of being ap-

plied to schools in said Territory, and the States and Territories hereafter to be erected out of the same.

SEC. 9. *And be it further enacted*, That temporarily, and until otherwise provided by law, the Governor of said Territory may define the Judicial Districts of said Territory, and assign the Judges who may be appointed for said Territory to the several Districts, and also appoint the time and places for holding Courts in the several counties or subdivisions in each of said Judicial Districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter, or modify such Judicial Districts, and assign the Judges, and alter the times and places of holding the Courts as to them shall seem proper and convenient.

SEC. 20. *And be it further enacted*, That every bill which shall or may pass the Council and House of Representatives shall, before it becomes a law, be presented to the Governor of the Territory; if he approve, he shall sign it, but if not, he shall return it, with his objections to the House in which it originated; which shall cause the objections to be entered at large upon the Journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall also be reconsidered, and if approved by two-thirds of that House, it shall become a law; but in all cases the votes of both Houses shall be detertermined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the Journal of each House respectively. If any bill shall not be returned by the Governor, within three days, (Sundays excepted,) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislative assembly, by adjournment, prevent it; in which case it shall not become a law.

APPROVED March 3, 1849.

CONSTITUTION

OF THE

STATE OF MINNESOTA.

PREAMBLE:

We, the people of the State of Minnesota, grateful to God for our civil and religious liberty, and desiring to perpetuate its blessings, and secure the same to ourselves and our posterity, do ordain and establish this Constitution:

ARTICLE I.

Bill of Rights.

SECTION 1. Government is instituted for the security, benefit and protection of the people, in whom all political power is inherent, together with the right to alter, modify or reform such government, whenever the public good may require it.

SEC. 2. No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers. There shall be neither slavery nor involuntary servitude in the State otherwise than in the punishment of crime whereof the party shall have been duly convicted.

SEC. 3. The liberty of the press shall forever remain inviolate, and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of such right.

SEC. 4. The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy, but a jury trial may be waived by the parties in all cases, in the manner prescribed by law.

SEC. 5. Excessive bail shall not be required, nor shall excessive fines be imposed, nor shall cruel or unusual punishments be inflicted.

SEC. 6. In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel in his defense.

SEC. 7. No person shall be held to answer for a criminal offence unless on the presentment or indictment of a Grand Jury, except in cases of impeachment or in cases cognizable by Justices of the Peace, or arising in the Army or Navy, or in the militia when in actual service in time of war or public danger, and no person for the same offence shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty,

or property without due process of law. All persons shall before conviction be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great; and the privilege of the writ of habeas corpus shall not be suspended, unless, when in case of rebellion or invasion, the public safety may require.

SEC. 8. Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character; he ought to obtain justice freely and without purchase; completely, and without denial; promptly and without delay, conformably to the laws.

SEC. 9. Treason against the State shall consist only in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

SEC. 10. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

SEC. 11. No bill of attainder, *ex post facto* law, nor any law impairing the obligation of contracts shall ever be passed, and no conviction shall work corruption of blood or forfeiture of estate.

SEC. 12. No person shall be imprisoned for debt in this State, but this shall not prevent the Legislature from providing for imprisonment or holding to bail persons charged with fraud in contracting said debt. A reasonable amount of property shall be exempt from seizure or sale, for the payment of any debt or liability; the amount of such exemption shall be determined by law.

SEC. 13. Private property shall not be taken for public use without just compensation therefor, first paid or secured.

SEC. 14. The military shall be subordinate to the civil power, and no standing army shall be kept up in this State in time of peace.

SEC. 15. All lands within this State are declared to be allodial, and feuded tenures of every description, with all their incidents, are prohibited. Leases and grants of agricultural land for a longer period than twenty-one years, hereafter made, in which shall be reserved any rent or service of any kind, shall be void.

SEC. 16. The enumeration of rights in this Constitution shall not be construed to deny or impair others retained by and inherent in the people. The right of every man to worship God according to the dictates of his own conscience shall never be infringed; nor shall any man be compelled to attend, erect, or support any place of worship, or to maintain any religious or ecclesiastical ministry against his consent; nor shall any control of, or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishment or mode of worship; but the liberty of conscience hereby secured, shall not be so construed as as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the State; nor shall any money be drawn from the treasury for the benefit of any religious societies, or religious or theological seminaries.

SEC. 17. No religious test or amount of property shall ever be required as a qualification for any office of public trust under the State. No religious test or amount of property shall ever be required as a qualification of any voter at any election in this State; nor shall any person be rendered incompetent to give evidence in any court of law or equity in consequence of his opinion upon the subject of religion.

ARTICLE II.

On Name and Boundaries.

SECTION 1. This State shall be called and known by the name of the State of Minnesota, and shall consist of and have jurisdiction over the Territory embraced in the following boundaries, to wit: Beginning at the point in the center of the main channel of the Red River of the North, where the boundary line between the United States and the British Possessions crosses the same; thence up the main channel of said river to that of the Bois des Sioux river; thence up the main channel of said river to Lake Traverse; thence up the center of said Lake to the southern extremity thereof; thence in a direct line to head of Big Stone Lake; thence through its

center to its outlet; thence by a due south line to the north line of the State of Iowa; thence east along the northern boundary of said State to the main channel of the Mississippi river; thence up the main channel of said river, and following the boundary line of the State of Wisconsin until the same intersects the St. Louis river; thence down the said river to and through Lake Superior, on the boundary line of Wisconsin and Michigan, until it intersects the dividing line between the United States and British Possessions; thence up Pigeon river, and following said dividing line to the place of beginning.

SEC. 2. The State of Minnesota shall have concurrent jurisdiction on the Mississippi and all other rivers and waters bordering on the said State of Minnesota, so far as the same shall form a common boundary to said State, and any other State or States now or hereafter to be formed by the same; and said river and waters, and navigable waters leading into the same, shall be common highways, and forever free, as well to the inhabitants of said State as to other citizens of the United States, without any tax, duty, impost or toll therefor.

SEC. 3. The propositions contained in the act of Congress entitled "An Act to authorize "the people of the Territory of Minnesota to "form a Constitution and State government "preparatory to their admission into the Union "on an equal footing with the original States," are hereby accepted, ratified, and confirmed, and shall remain irrevocable without the consent of the United States; and it is hereby ordained that this State shall never interfere with the primary disposal of the soil within the same, by the United States, or with any regulation Congress may find necessary for securing the title to said soil to bona fide purchasers thereof; and no tax shall be imposed on lands belonging to the United States, and in no case shall non-resident proprietors be taxed higher than residents.

ARTICLE III.

Distribution of the Powers of Government.

SECTION 1. The powers of government shall be divided into three distinct Departments—the Legislative, Executive and Judicial; and no person or persons belonging to or constituting one of these Departments, shall exercise any of the powers properly belonging to either of the others, except in the instances expressly provided in this Constitution.

ARTICLE IV.

Legislative Department.

SECTION 1. The Legislature of the State shall consist of a Senate and House of Representatives, who shall meet at the Seat of Government of the State, at such times as shall be prescribed by law.

SEC. 2. The number of members who compose the Senate and House of Representatives shall be prescribed by law, but the representation in the Senate shall never exceed one member for every five thousand inhabitants, and in the House of Representatives one member for every two thousand inhabitants. The representation in both Houses shall be apportioned equally throughout the different sections of the State, in proportion to the population thereof, exclusive of Indians not taxable under the provisions of law.

SEC. 3. Each House shall be the judge of the election returns, and eligibility of its own members; a majority of each shall constitute a quorum to transact business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as it may provide.

SEC. 4. Each House may determine the rules of its proceedings, sit upon its own adjournment, punish its members for disorderly behavior, and with the concurrence of two-thirds, expel a member, but no member shall be expelled a second time for the same offence.

SEC. 5. The House of Representatives shall elect its presiding officer, and the Senate and House of Representatives shall elect such other officers as may be provided by law; they shall keep Journals of their proceedings, and from time to time publish the same, and the yeas and nays, when taken on any question, shall be entered on such Journals.

SEC. 6. Neither House shall, during the session of the Legislature, adjourn for more than three days, (Sundays excepted,) nor to any other place than that in which the two Houses shall be assembled, without the consent of the other House.

SEC. 7. The compensation of Senators and Representatives shall be three dollars per diem during the first session, but may afterwards be prescribed by law. But no increase of compensation shall he prescribed which shall take effect during the period for which the members of the existing House of Representatives may have been elected.

SEC. 8. The members of each House shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during the sessions of their respective Houses, and in going to or returning from the same. For any speech or debate in either House they shall not be questioned in any other place.

SEC. 9. No Senator or Representative shall, during the time for which he is elected, hold any office under the authority of the United States, or the State of Minnesota except that of Postmaster; and no Senator or Representative shall hold an office under the State, which had been created, or the emoluments of which had been increased during the session of the Legislature of which he was a member, until one year after the expiration of his term of office in the Legislature.

SEC. 10. All bills for raising a revenue shall originate in the House of Representatives, but the Senate may propose and concur with amendments, as on other bills.

SEC. 11. Every bill which shall have passed the Senate and House of Representatives, in conformity to the rules of each House and the Joint Rules of the two Houses, shall, before it becomes a law, be presented to the Governor of the State. If he approve, he shall sign and deposit it in the office of Secretary of State for preservation, and notify the House where it originated of the fact. But if not, he shall return it with his objections to the House in which it shall have originated, when such objections shall be entered at large on the journal of the same, and the House shall proceed to reconsider the bill. If, after such reconsideration, two thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if it be approved by two thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journal of each House respectively. If any bill shall not be returned by the Governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the Legislature, by adjournment within that time, prevent its return, in which case it shall not be a law. The Governor may approve, sign, and file in the office of the Secretary of State, within three days after the adjournment of the Legislature, any act passed during the three last days of the session, and the same shall become a law.

SEC. 12. No money shall be appropriated except by bill. Every order, resolution or vote requiring the concurrence of the two Houses, (except such as relate to the business or adjournment of the same,) shall be presented to the Governor for his signature, and before the same shall take effect, shall be approved by him, or being returned by him with his objections, shall be repassed by two-thirds of the members of the two Houses, according to the rules and limitations prescribed in case of a bill.

SEC. 13. The style of all laws of this State shall be: "Be it enacted by the Legislature of the State of Minnesota." No law shall be passed unless voted for by a majority of all the members elected to each branch of the Legislature, and the vote entered upon the journal of each House.

SEC. 14. The House of Representatives shall have the sole power of impeachment, through a concurrence of a majority of all the members elected to seats therein. All impeachments shall be tried by the Senate; and when sitting for that purpose the Senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the members present.

SEC. 15. The Legislature shall have full power to exclude from the privilege of electing or being elected, any person convicted of bribery, perjury, or any other infamous crime.

SEC. 16. Two or more members of either House shall have liberty to dissent and protest against any act or resolution which they may think injurious to the public or to

any individual, and have the reason of their dissent entered on the journal.

SEC. 17. The Governor shall issue writs of election to fill such vacancies as may occur in either House of the Legislature. The Legislature shall prescribe by law the manner in which evidence in cases of contested seats in either House shall be taken.

SEC. 18. Each House may punish by imprisonment, during its session, any person not a member, who shall be guilty of any disorderly or contemptuous behavior in their presence, but no such imprisonment shall at any time exceed twenty-four hours.

SEC. 19. Each House shall be open to the public during the sessions thereof except in such cases as their opinion may require secrecy.

SEC. 20. Every bill shall be read on three different days in each separate House, unless in case of urgency, two-thirds of the House where such bill is pending, shall deem it expedient to dispense with this rule; and no bill shall be passed by either House until it shall have been previously read twice at length.

SEC. 21. Every bill having passed both Houses, shall be carefully enrolled, and shall be signed by the presiding officer of each House. Any presiding officer refusing to sign a bill which shall have previously passed both Houses, shall thereafter be incapable of holding a seat in either branch of the Legislative Assembly, or hold any other office of honor or profit in the State; and in case of such refusal, each House shall, by rule, provide the manner in which such bill shall be properly certified for presentation to the Governor.

SEC. 22. No bill shall be passed by either House of the Legislature upon the day prescribed for the adjournment of the two Houses. But this section shall not be so construed as to preclude the enrollment of a bill, or the signature and passage from one House to the other, or the reports thereon from committees, or its transmission to the Executive for his signature.

SEC. 23. The Legislature shall provide by law for the enumeration of the inhabitants of this State in the year one thousand eight hundred and sixty-five, and every tenth year thereafter. At their first session after each enumeration so made, and also at their first session after each enumeration made by the authority of the United States, the Legislature shall have the power to prescribe the bounds of Congressional, Senatorial and Representative districts, and to apportion anew the Senators and Representatives among the several districts, according to the provisions of section second of this article.

SEC. 24. The Senators shall also be chosen by single districts of convenient contiguous territory, at the same time that the members of the House of Representatives are required to be chosen, and in the same manner; and no representative district shall be divided in the formation of a Senate District. The Senate districts shall be numbered in regular series, and the Senators chosen by the districts designated by odd numbers, shall go out of office at the expiration of the first year, and the Senators chosen by the districts designated by even numbers shall go out of office at the expiration of the second year; and thereafter the Senators shall be chosen for the term of two years, except there shall be an entire new election of all the Senators at the election next succeeding each new apportionment provided for in this article.

SEC. 25. Senators and Representatives shall be qualified voters of the State, and shall have resided one year in the State, and six months immediately preceding the election in the district from which they are elected.

SEC. 26. Members of the Senate of the United States from this State shall be elected by the two Houses of the Legislature, in joint Convention, at such times and in such manner as may be provided by law.

SEC. 27. No law shall embrace more than one subject, which shall be expressed in its title.

SEC. 28. Divorces shall not be granted by the Legislature.

SEC. 29. All members and officers of both branches of the Legislature shall, before entering upon the duties of their respective trusts, take and subscribe an oath or affirmation to support the Constitution of the United States, the Constitution of the State of Minnesota, and faithfully and impartially to discharge the duties devolving upon him as such member or officer.

SEC. 30. In all elections to be made by the Legislature, the members thereof shall vote

viva voce, and their votes shall be entered on the Journal.

SEC. 31. The Legislature shall never authorize any lottery, or the sale of lottery tickets.

ARTICLE V.

Executive Department.

SECTION 1. The Executive Department shall consist of a Governor, Lieutenant Governor, Secretary of State, Auditor, Treasurer, and Attorney General, who shall be chosen by the electors of the State.

SEC. 2. The returns of every election, for the officers named in the foregoing section shall be made to the Secretary of State, and by him transmitted to the Speaker of the House of Representatives, who shall cause the same to be opened and canvassed before both houses of the Legislature, and the result declared within three days after each House shall be organized.

SEC. 3. The term of office for the Governor and Lieutenant Governor shall be two years, and until their successors are chosen and qualified. Each shall have attained the age of twenty-five (25) years, and shall have been a bona fide resident of the State for one year next preceding his election. Both shall be citizens of the United States.

SEC. 4. The Governor shall communicate by message to each session of the Legislature, such information touching the state and condition of the country as he may deem expedient. He shall be commander-in-chief of the military and naval forces, and may call out such forces to execute the laws, to suppress insurrection and to repel invasion. He may require the opinion, in writing, of the principal officer in each of the Executive Departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons after conviction for offences against the State, except in cases of impeachment. He shall have power, by and with the advice and consent of the Senate, to appoint a State Librarian and Notaries Public, and such other officers as may be provided by law; he shall have power to appoint Commissioners to take the acknowledgment of deeds or other instruments in writing, to be used in the State. He shall have a negative upon all laws passed by the Legislature under such rules and limitations as are in this Constitution prescribed. He may, on extraordinary occasions convene both Houses of the Legislature. He shall take care that the laws be faithfully executed, fill any vacancy that may occur in the office of Secretary of State, Treasurer, Auditor, Attorney General, and such other State and District officers as may be hereafter created by law, until the next annual election, and until their successors are chosen and qualified.

SEC. 5. The official term of the Secretary of State, Treasurer and Attorney General shall be two years. The official term of the Auditor shall be three years, and each shall continue in office until his successor shall have been elected and qualified. The Governor's salary for the first term under this Constitution shall be two thousand five hundred dollars per annum. The salary of the Secretary of State for the first term shall be fifteen hundred dollars per annum. The Auditor, Treasurer and Attorney General shall each, for the first term, receive a salary of one thousand dollars per annum. And the further duties and salaries of said Executive officers shall each thereafter be prescribed by law.

SEC. 6. The Lieutenant Governor shall be ex-officio President of the Senate, and in case a vacancy should occur, from any cause whatever, in the office of Governor, he shall be Governor during such vacancy. The compensation of Lieutenant Governor shall be double the compensation of a State Senator. Before the close of each session of the Senate they shall elect a President pro tempore, who shall be Lieutenant Governor in case a vacancy should occur in that office.

SEC. 7. The term of each of the Executive offices named in this article, shall commence upon taking the oath of office, after the State shall be admitted by Congress into the Union, and continue until the first Monday in January, 1860, except the Auditor, who shall continue in office until the first Monday in January, 1861, and until their successors shall have been duly elected and qualified.

SEC. 8. Each officer created by this article, shall, before entering upon his duties, take an oath or affirmation to support the Constitution of the United States, and of

this State, and faithfully discharge the duties of his office to the best of his judgment and ability.

SEC. 9. Laws shall be passed at the first session of the Legislature after the State is admitted into the Union to carry out the provisions of this article.

ARTICLE VI.

Judicial.

SECTION 1. The Judicial power of the State shall be vested in a Supreme Court, District Courts, Courts of Probate, Justices of the Peace, and such other Courts, inferior to the Supreme Court, as the Legislature may from time to time establish by a two-thirds vote.

SEC. 2. The Supreme Court shall consist of one Chief Justice and two Associate Justices, but the number of Associate Justices may be increased to a number not exceeding four, by the Legislature, by a two-thirds vote, when it shall be deemed necessary. It shall have original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all cases, both in law and equity, but there shall be no trial by jury in said Court. It shall hold one or more terms in each year, as the Legislature may direct, at the seat of Government, and the Legislature may provide by a two-thirds vote, that one term in each year shall be held in each or any Judicial District. It shall be the duty of such Court to appoint a Reporter of its decisions. There shall be chosen by the qualified electors of the State, one Clerk of the Supreme Court, who shall hold his office for the term of three years, and until his successor is duly elected and qualified, and the Judges of the Supreme Court, or a majority of them, shall have the power to fill any vacancy in the office of Clerk of the Supreme Court until an election can be regularly had.

SEC. 3. The Judges of the Supreme Court shall be elected by the electors of the State at large, and their term of office shall be seven years, and until their successors are elected and qualified.

SEC. 4. The State shall be divided by the Legislature into six Judicial Districts, which shall be composed of contiguous territory, be bounded by county lines, and contain a population as nearly equal as may be practicable. In each Judicial District, one Judge shall be elected by the electors thereof, who shall constitute said Court, and whose term of office shall be seven years. Every District Judge shall, at the time of his election, be a resident of the District for which he shall be elected, and shall reside therein during his continuance in office.

SEC. 5. The District Courts shall have original jurisdiction in all civil cases, both in law and equity, where the amount in controversy exceeds one hundred dollars, and in all criminal cases where the punishment shall exceed three months imprisonment, or a fine of more than one hundred dollars, and shall have such appellate jurisdiction as may be prescribed by law. The Legislature may provide by law that the Judge of one District may discharge the duties of Judge of any other district, not his own, when convenience or the public interest may require it.

SEC. 6. The Judges of the Supreme and District Courts shall be men learned in the law, and shall receive such compensation, at stated times, as may be prescribed by the Legislature, which compensation shall not be diminished during their continuance in office, but they shall receive no other fee or reward for their services.

SEC. 7. There shall be established in each organized county in the State a Probate Court, which shall be a Court of Record, and be held at such times and places as may be prescribed by law. It shall be held by one Judge, who shall be elected by the voters of the county, for the term of two years. He shall be a resident of such county at the time of his election, and reside therein during his continuance in office, and his compensation shall be provided by law. He may appoint his own Clerk, where none has been elected, but the Legislature may authorize the election by the electors of any county, of one Clerk or Register of Probate for such county, whose powers, duties, term of office and compensation shall be prescribed by law. A Probate Court shall have jurisdiction over the estates of deceased persons, and persons under guardianship, but no other jurisdiction except as prescribed by this Constitution.

SEC. 8. The Legislature shall provide for the election of a sufficient number of Justices of the Peace in each county, whose term

of office shall be two years, and whose duties and compensation shall be prescribed by law; *Provided*, That no Justice of the Peace shall have jurisdiction of any civil cause where the amount in controversy shall exceed one hundred dollars, nor in a criminal cause where the punishment shall exceed three months imprisonment, or a fine of over one hundred dollars, nor in any case involving the title to real estate.

SEC. 9. All judges other than those provided for in this Constitution shall be elected by the electors of the Judicial district, county or city, for which they shall be created, nor for a longer term than seven years.

SEC. 10. In case the office of any Judge shall become vacant before the expiration of the regular term for which he was elected, the vacancy shall be filled by appointment by the Governor until a successor is elected and qualified. And such successor shall be elected at the first annual election that occurs more than thirty days after the vacancy shall have happened.

SEC. 11. The Justices of the Supreme Court and the District Courts shall hold no office under the United States, nor any other office under this State. And all votes for either of them for any elective office under this Constitution, except a Judicial office, given by the Legislature or the people, during their continuance in office, shall be void.

SEC. 12. The Legislature may at any time change the number of Judicial Districts, or their boundaries, when it shall be deemed expedient, but no such change shall vacate the office of any Judge.

SEC. 13. There shall be elected in each county where a district court shall be held, one clerk of said court, whose qualifications, duties and compensation shall be prescribed by law, and whose term of office shall be four years.

SEC. 14. Legal pleadings and proceedings in the courts of this State shall be under the direction of the Legislature. The style of all process shall be "The State of Minnesota," and all indictments shall include "Against "the peace and dignity of the State of Minne- "sota."

SEC. 15. The Legislature may provide for the election of one person in each organized county in this State, to be called a Court Commissioner, with judicial power and jurisdiction not exceeding the power and jurisdiction of a Judge of the District Court at Chambers, or the Legislature may, instead of such election, confer such power and jurisdiction upon Judges of Probate in the State.

ARTICLE VII.

Elective Franchise.

SECTION 1. Every male person of the age of twenty-one years or upwards, belonging to either of the following classes, who shall have resided in the United States one year and in this State for four months next preceding any election, shall be entitled to vote at such election, in the election district of which he shall at the time have been for ten days a resident, for all officers that now are or hereafter may be elective by the people:

First. White citizens of the United States.

Second. White persons of foreign birth, who shall have declared their intention to become citizens, conformably to the laws of the United States upon the subject of naturalization.

Third. Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization.

Fourth. Persons of Indian blood residing in this State, who have adopted the language, customs and habits of civilization, after an examination before any District Court of the State, in such manner as may be provided by law, and shall have been pronounced by said court capable of enjoying the rights of citizenship within the State.

SEC. 2. No person not belonging to one of the classes specified in the preceding section; no person who has been convicted of treason or any felony, unless restored to civil rights; and no person under guardianship, or who may be *non compos mentis* or insane, shall be entitled or permitted to vote at any election in this State.

SEC. 3. For the purpose of voting, no person shall be deemed to have lost a residence by reason of his absence while employed in the service of the United States; nor while engaged upon the waters of this State or of the United States; nor while a student of any seminary of learning; nor while kept at any alms-house or other asylum; nor while confined in any public prison.

SEC. 4. No soldier, seaman, or marine in

the army or navy of the United States, shall be deemed a resident of this State in consequence of being stationed within the same.

SEC. 5. During the day on which any election shall be held, no person shall be arrested by virtue of any civil process.

SEC. 6. All elections shall be by ballot, except for such town officers as may be directed by law to be otherwise chosen.

SEC. 7. Every person who, by the provisions of this article shall be entitled to vote at any election, shall be eligible to any office which now is, or hereafter shall be, elective by the people in the district wherein he shall have resided thirty days previous to such election; except as otherwise provided in this Constitution, or the Constitution and Laws of the United States.

ARTICLE VIII.

School Funds, Education and Science.

SECTION 1. The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the Legislature to establish a general and uniform system of public schools.

SEC. 2. The proceeds of such lands as are or hereafter may be granted by the United States for the use of schools within each township in this State, shall remain a perpetual school fund to the State, and not more than one-third (1-3) of said lands may be sold in two (2) years, one third (1-3) in five (5) years, and one-third (1-3) in ten (10) years; but the lands of the greatest valuation shall be sold first, provided that no portion of said lands shall be sold otherwise than at public sale. The principal of all funds arising from sales or other disposition of lands, or other property, granted or entrusted to this State in each township for educational purposes, shall forever be preserved inviolate and undiminished; and the income arising from the lease or sale of said school lands shall be distributed to the different townships throughout the State, in proportion to the number of scholars in each township between the ages of five and twenty-one years, and shall be faithfully applied to the specific objects of the original grants or appropriations.

SEC. 3. The Legislature shall make such provisions, by taxation or otherwise, as, with the income arising from the school fund, will secure a thorough and efficient system of Public Schools in each township in the State.

SEC. 4. The location of the University of Minnesota as established by existing laws, is hereby confirmed, and said institution is hereby declared to be the University of the State of Minnesota. All the rights, immunities, franchises and endowments heretofore granted or conferred, are hereby perpetuated unto the said University, and all lands which may be granted hereafter by Congress or other donations for said University purposes shall vest in the institution referred to in this Section.

ARTICLE IX.

Finances of the State, and Banks and Banking.

SECTION 1. All taxes to be raised in this State shall be as nearly equal as may be, and all property on which taxes are to be levied shall have a cash valuation, and be equalized and uniform throughout the State.

SEC. 2. The Legislature shall provide for an Annual Tax sufficient to defray the estimated expenses of the State for each year; and whenever it shall happen that such ordinary expenses of the State for any year shall exceed the income of the State for such year, the Legislature shall provide for levying a tax for the ensuing year sufficient with other sources of income, to pay the deficiency of the preceding year, together with the estimated expenses of such ensuing year.

SEC. 3. Laws shall be passed taxing all moneys, credits, investments in bonds, stocks, joint stock companies, or otherwise, and also all real and personal property, according to its true value in money; but public burying grounds, public school houses, public hospitals, academies, colleges, universities, and all seminaries of learning, all churches, church property used for religious purposes and houses of worship, institutions of purely public charity, public property used exclusively for any public purpose, and personal property to an amount not exceeding in value two hundred dollars for each individual, shall, by general laws, be exempt from taxation.

SEC. 4. Laws shall be passed for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects, or dues of every description, of all banks, and of all bankers; so that all property employed in banking shall always be subject to

a taxation equal to that imposed on the property of individuals.

SEC. 5. For the purpose of defraying extraordinary expenditures, the State may contract public debts, but such debts shall never in the aggregate exceed two hundred and fifty thousand dollars; every such debt shall be authorized by law, for some single object to be distinctly specified therein; and no such law shall take effect until it shall have been passed by the vote of two-thirds of the members of each branch of the Legislature, to be recorded by yeas and nays on the journals of each House respectively; and every such law shall levy a tax annually sufficient to pay the annual interest of such debt, and also a tax sufficient to pay the principal of such debt within ten years from the final passage of such law, and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation and taxes shall not be repealed, postponed or diminished until the principal and interest of such debt shall have been wholly paid. The State shall never contract any debts for works of internal improvement, or be a party in carrying on such works, except in cases where grants of land or other property shall have been made to the State especially dedicated by the grant to specific purposes; and in such cases the State shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion.

SEC. 6. All debts authorized by the preceding section shall be contracted by loan on State bonds of amounts not less than five hundred dollars each, on interest payable within ten years after the final passage of the law authorizing such debt; and such bonds shall not be sold by the State under par. A correct registry of all such bonds shall be kept by the Treasurer, in numerical order, so as always to exhibit the number and amount unpaid, and to whom severally made payable.

SEC. 7. The State shall never contract any public debt, unless in time of war, to repel invasion or suppress insurrection, except in the cases and in the manner provided in the fifth and sixth sections of this Article.

SEC. 8. The money arising from any loan made, or debt or liability contracted, shall be applied to the object specified in the act authorizing such debt or liability, and to no other purpose whatever.

SEC. 9. No money shall ever be paid out of the Treasury of this State, except in pursuance of an appropriation by law.

SEC, 10. The credit of the State shall never be given or loaned in aid of any individual, association or corporation.

SEC. 11. There shall be published by the Treasurer, in at least one newspaper printed at the seat of Government, during the first week in January of each year, and in the next volume of the Acts of the Legislature, detailed statements of all moneys drawn from the Treasury during the preceding year; for what purposes, and to whom paid, and by what law authorized; and also of all moneys received, and by what authority, and from whom.

SEC. 12. Suitable laws shall be passed by the Legislature for the safe keeping, transfer and disbursement of the State and School funds, and all officers and other persons charged with the same shall be required to give ample security for all moneys and funds of any kind, to keep an accurate entry of each sum received, and of each payment and transfer, and if any of said officers or other persons shall convert to his own use in any form, or shall loan with or without interest, contrary to law, or shall deposit in banks, or exchange for other fund, any portion of the funds of the State, every such act shall be adjudged to be an embezzlement of so much of the State funds as shall be thus taken, and shall be declared a felony; and any failure to pay over or produce the State or School funds intrusted to such persons, on demand, shall be held and taken to be *prima facie* evidence of such embezzlement.

SEC. 13. The Legislature may, by a two-thirds vote, pass a General Banking Law, with the following restrictions and requirements, viz:

First. The Legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments by any person, association or corporation issuing bank notes of any description.

Second. The Legislature shall provide by

law for the registry of all bills or notes issued or put in circulation as money, and shall require ample security in United States stock or State stocks for the redemption of the same in specie, and in case of a depreciation of said stocks, or any part thereof, to the amount of ten per cent. or more on the dollar, the bank or banks owning said stocks shall be required to make up said deficiency by additional stocks.

Third. The stockholders in any corporation or joint association for banking purposes issuing bank notes, shall be individually liable in an amount equal to double the amount of stock owned by them for the debts of such corporation or association, and such individual liability shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

Fourth. In case of the insolvency of any bank or banking association, the billholders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

Fifth. Any General Banking Law which may be passed in accordance with this article shall provide for recording the names of all stockholders in such corporations, the amount of stock held by each, the time of transfer, and to whom transferred.

ARTICLE X.

Of Corporations having no Banking Privileges.

SECTION 1. The term "Corporations," as used in this article, shall be construed to include all associations and joint stock companies having any of the powers and privileges not possessed by individuals or partnerships, except such as embrace banking privileges, and all corporations shall have the right to sue, and shall be liable to be sued in all courts in like manner as natural persons.

SEC. 2. No corporation shall be formed under special acts, except for municipal purposes.

SEC. 3. Each stockholder in any corporation shall be liable to the amount of the stock held or owned by him.

SEC. 4. Lands may be taken for public way, for the purpose of granting to any corporation the franchise of way for public use. In all cases, however, a fair and equitable compensation shall be paid for such land, and the damages arising from the taking of the same; but all corporations being common carriers, enjoying the right of way in pursuance of the provisions of this section, shall be bound to carry the mineral, agricultural and other productions or manufactures on equal and reasonable terms.

ARTICLE XI.

Counties and Townships.

SECTION 1. The Legislature may, from time to time, establish and organize new counties, but no new county shall contain less than four hundred square miles; nor shall any county be reduced below that amount; and all laws changing county lines in counties already organized, or for removing county seats shall, before taking effect, be submitted to the electors of the county or counties to be affected thereby, at the next general election after the passage thereof, and be adopted by a majority of such electors. Counties now established may be enlarged, but not reduced below four hundred (400,) square miles.

SEC. 2. The Legislature may organize any city into a separate county when it has attained a population of twenty thousand inhabitants, without reference to geographical extent, when a majority of the electors of the county in which such city may be situated, voting thereon, shall be in favor of separate organization.

SEC. 3. Laws may be passed providing for the organization, for municipal and other town purposes, of any Congressional or fractional townships in the several counties in the State, provided that when a township is divided by county lines, or does not contain one hundred inhabitants, it may be attached to one or more adjoining townships or parts of townships, for the purposes aforesaid.

SEC. 4. Provision shall be made by law for the election of such county or township officers as may be necessary.

SEC. 5. Any county and township organization shall have such powers of local taxation as may be prescribed by law.

SEC. 6. No money shall be drawn from any county or township treasury except by authority of law.

ARTICLE XII.

Of the Militia.

SECTION 1. It shall be the duty of the Legislature to pass such laws for the organiza-

tion, discipline and service of the Militia of the State, as may be deemed necessary.

ARTICLE XIII.

Impeachment and Removal from Office.

SECTION 1. The Governor, Secretary of State, Treasurer, Auditor, Attorney General and the Judges of the Supreme and District Courts, may be impeached for corrupt conduct in office, or for crimes and misdemeanors; but judgment in such case shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust or profit, in this State. The party convicted thereof shall nevertheless be liable and subject to indictment, trial, judgment and punishment according to law.

SEC. 2. The Legislature of this State may provide for the removal of inferior officers from office, for malfeasance or nonfeasance in the performance of their duties.

SEC. 3. No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

SEC. 4. On the trial of an impeachment against the Governor, the Lieutenant Governor shall not act as a member of the Court.

SEC. 5. No person shall be tried on impeachment before he shall have been served with a copy thereof at least twenty days previous to the day set for trial.

ARTICLE XIV.

Amendments to the Constitution.

SECTION 1. Whenever a majority of both Houses of the Legislature shall deem it necessary to alter or amend this Constitution, they may propose such alterations or amendments, which proposed amendments shall be published with the laws which have been passed at the same session, and said amendments shall be submitted to the people for their approval or rejection; and if it shall appear in a manner to be provided by law, that a majority of the voters present and voting shall have ratified such alterations or amendments, the same shall be valid to all intents and purposes, as a part of this Constitution. If two or more alterations or amendments shall be submitted at the same time, it shall be so regulated that the voters shall vote for or against each seaparately.

SEC. 2. Whenever two-thirds of the members elected to each branch of the Legislature shall think it necessary to call a Convention to revise this Constitution, they shall recommend to the electors to vote, at the next election for members of the Legislature, for or against a Convention; and if a majority of all the electors voting at said election, shall have voted for a Convention, the Legislature shall at their next session provide by law for calling the same. The Convention shall consist of as many members as the House of Representatives, who shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.

ARTICLE XV.

Miscellaneous Subjects.

SECTION 1. The seat of government of the State shall be at the city of St. Paul, but the Legislature, at their first or any future session may provide by law for a change of the seat of government by a vote of the people, or may locate the same upon the land granted by Congress for a seat of Government to the State; and in the event of the seat of government being removed from the city of St. Paul to any other place in the State, the Capitol building and grounds shall be dedicated to an institution for the promotion of science, literature and the arts, to be organized by the Legislature of the State, and of which institution the Minnesota Historical Society shall always be a department.

SEC. 2. Persons residing on Indian lands within this State shall enjoy all the rights and privileges of citizens as though they lived in any other portion of the State, and shall be subject to taxation.

SEC. 3. The Legislature shall provide for a uniform oath or affirmation to be administered at elections, and no person shall be compelled to take any other or different form of oath to entitle him to vote.

SEC. 4. There shall be a seal of the State, which shall be kept by the Secretary of State, and be used by him officially, and shall be called the Great Seal of the State of Minnesota, and shall be attached to all official acts of the Governor, (his signature to acts and resolves of the Legislature excepted,) requiring authentication. The Legislature shall provide for an appropriate device and motto for said seal.

SEC. 5. The Territorial prison as located under existing laws, shall, after the adoption

of this Constitution, be and remain one of the State Prisons of the State of Minnesota.

SCHEDULE.

SECTION 1. That no inconvenience may arise by reason of a change from a Territorial to a permanent State government, it is declared that all rights, actions, prosecutions, judgments, claims and contracts, as well of individual as of bodies corporate, shall continue as if no change had taken place; and all process which may be issued under the authority of the Territory of Minnesota previous to its admission into the Union of the United States, shall be as valid as if issued in the name of the State.

SEC. 2. All laws now in force in the Territory of Minnesota not repugnant to this Constitution, shall remain in force until they expire by their own limitation, or be altered or repealed by the Legislature.

SEC. 3. All fines, penalties or forfeitures accruing to the Territory of Minnesota, shall inure to the State.

SEC. 4. All recognizances heretofore taken, or which may he taken before the change from Territorial to permanent a State Government shall remain valid, and shall pass to, and may be prosecuted in the name of the State; and all bonds executed to the Governor of the Territory, or to any other officer or court in his or their official capacity, shall pass to the Governor or State authority and their successors in office for the uses therein respectively expressed, and may be sued for and recovered accordingly; and all the estate of property, real, personal, or mixed, and all judgments, bonds, specialties, choses in action, and claims and debts of whatsoever description of the Territory of Minnesota, shall inure to and vest in the State of Minnesota, and may be sued for and recovered in the same manner and to the same extent by the State of Minnesota as the same could have been by the Territory of Minnesota. All criminal prosecutions and penal actions which may have arisen or which may arise before the change from a Territorial to a State government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the State. All offences committed against the laws of the Territory of Minnesota before the change from a Territorial to a State government and which shall not be prosecuted before such change may be prosecuted in the name and by the authority of the State of Minnesota with like effect as though such change had not taken place, and all penalties incurred shall remain the same as if this Constitution had not been adopted. All actions at law and suits in equity which may be pending in any of the courts of the Territory of Minnesota at the time of the change from a Territorial to a State government may be continued and transferred to any court of the State which shall have jurisdiction of the subject matter thereof.

SEC. 5. All Territorial officers, civil and military, now holding their offices under the authority of the United States, or of the Territory of Minnesota, shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the State.

SEC. 6. The first session of the Legislature of the State of Minnesota shall commence on the first Wednesday of December next, and shall be held at the Capitol in the city of St. Paul.

SEC. 7. The laws regulating the election and qualification of all district, county and precinct officers shall continue and be in force until the Legislature shall otherwise provide by law.

SEC. 8. The President of the Convention shall, immediately after the adjournment thereof, cause this Constitution to be deposited in the office of the Governor of the Territory; and if after the submission of the same to a vote of the people, as hereinafter provided, it shall appear that it has been adopted by a vote of the people of the State, then the Governor shall forward a certified copy of the same together with an abstract of the votes polled for and against the said Constitution, to the President of the United States, to be by him laid before the Congress of the United States.

SEC. 9. For the purposes of the first election the State shall constitute one district, and shall elect three members to the House of Representatives of the United Sates.

SEC. 10. For the purposes of the first election for members of the State Senate and the House of Representatives, the State shall he divided into senatorial and representative districts as follows, viz: first district, Washington county; second district, Ramsey county; third district, Dakota county; fourth district, so much of Hennepin county as lies west of the Mississippi; fifth district, Rice county; sixth district, Goodhue county; seventh dis-

trict, Scott county; eighth district, Olmsted county; ninth district, Fillmore county; tenth district, Houston county; eleventh district, Winona county; twelfth district, Wabashaw county; thirteenth district, Mower and Dodge counties; fourteenth district, Freeborn and Faribault counties; fifteenth district, Steele and Waseca counties; sixteenth district, Blue Earth and Lesueur counties; seventeenth district, Nicollet and Brown counties; eighteenth district, Sibley, Renville, and McLeod counties; nineteenth district Carver and Wright counties; twentieth district, Benton, Stearns and Meeker counties; twenty-first district, Morrison, Crow Wing and Mille Lac counties; twenty-second district, Cass, Pembina and Todd counties; twenty-third district, so much of Hennepin county as lies east of the Mississippi; twenty-fourth district, Sherburne, Anoka and Manomin counties; twenty-fifth district, Chisago, Pine and Isanti counties; twenty-sixth district, Buchanan, Carlton, St. Louis, Lake and Itasca counties.

SEC. 11. The counties of Brown, Stearns, Todd, Cass, Pembina and Renville, as applied in the preceding section, shall not be deemed to include any Territory west of the State line, but shall be deemed to include all counties and parts of counties east of said line as were created out of the Territory of either, at the last session of the Legislature.

SEC. 12. The senators and representatives at the first election shall be apportioned among the several senatorial and representative districts as follows, to wit:

1st District, ...	2 Senators	3 Repre'tives
2d "	3 "	6 "
3d "	2 "	5 "
4th "	2 "	4 "
5th "	2 "	3 "
6th "	1 "	4 "
7th "	1 "	3 "
8th "	2 "	4 "
9th "	2 "	6 "
10th "	2 "	3 "
11th "	2 "	4 "
12th "	1 "	3 "
13th "	2 "	3 "
14th "	1 "	3 "
15th "	1 "	4 "
16th "	1 "	3 "
17th "	1 "	3 "
18th "	1 "	3 "
19th "	1 "	3 "
20th "	1 "	3 "
21st "	1 "	1 "
22d "	1 "	1 "
23d "	1 "	2 "
24th "	1 "	1 "
25th "	1 "	1 "
26th "	1 "	1 "
	37	80

SEC. 13. The returns from the twenty-second District shall be made to and canvassed by the judges of election at the precinct of Otter Tail City.

SEC. 14. Until the Legislature shall otherwise provide, the State shall be divided into Judicial Districts, as follows:

The counties of Washington, Chisago, Manomin, Anoka, Pine, Buchanan, Carlton, St. Louis and Lake, shall constitute thefirst Judicial District.

The county of Ramsey shall constitute the second Judicial District.

The counties of Houston, Winona, Fillmore, Olmsted and Wabashaw shall constitute the Third Judicial District.

The counties of Hennepin, Carver, Wright, Meeker, Sherburne, Benton, Stearns, Morrison, Crow Wing, Mille Lac, Itasca, Pembina, Todd and Cass shall constitute the Fourth Judicial District.

The counties of Dakota, Goodhue, Scott Rice, Steele, Waseca, Dodge, Mower and Freeborn shall constitute the Fifth Judicial District.

The counties of Le Seuer, Sibley, Nicollet, Blue Earth, Faribault, McLeod, Renville, Brown, and all other counties in the State not included within the other districts shall constitute the Sixth Judicial District.

SEC. 15. Each of the foregoing enumerated Judicial Districts, may, at the first election, elect one Prosecuting Attorney for the District.

SEC. 16. Upon the second Tuesday, the thirteenth day of October, 1857, an election shall be held for members of the House of Representatives of the United States, Governor, Lieutenant Governor, Supreme and District Judges, and Members of the Legislature, and all other officers designated in this Constitution, and also for the submission of this Constitution to the people for their adoption or rejection.

SEC. 17. Upon the day so designated as aforesaid, every free white male inhabitant over the age of twenty-one years, who shall have resided within the limits of the State for ten days previous to the day of said election, may vote for all officers to be elected under this Constitution at such election, and also for or against the adoption of this Constitution.

SEC. 18. In voting for or against the adoption of this Constitution, the words "For Constitution," or "Against Constitution," may be written or printed on the ticket of each voter, but no voter shall vote for or against this Constitution on a separate ballot from that cast by him for officers to be elected at said election under this Constitution; and if upon the canvass of the votes so polled, it shall appear that there was a greater number of votes polled for, than against said Constitution, then this Constitution shall be deemed to be adopted as the Constitution of the State of Minnesota; and all the provisions and obligations of this Constitution, and of the Schedule hereunto attached, shall thereafter be valid to all intents and purposes as the Constitution of said State.

SEC. 19. At said election the polls shall be opened, the election held, returns made and certificates issued, in all respect as provided by law for opening, closing, and conducting elections, and making returns of the same, except as hereinbefore specified, and excepting also that polls may be opened and elections held at any point or points, in any of the counties where precincts may be established as provided by law, ten days previous to the day of election, not less than ten miles from the place of voting in any established precinct.

SEC. 20. It shall be the duty of the judges and clerks of election, in addition to the returns required by law from each precinct, to forward to the Secretary of the Territory by mail immediately after the close of the election, a certified copy of the poll book, containing the name of each person who has voted in the precinct, and the number of votes polled for each person for any office, and the votes polled for or against the adoption of the Constitution.

SEC. 21. The returns of said election for and against this Constitution, and for all state officers and members of the House of Representatives of the United States, shall be made and certificates issued in the manner now prescribed by law for returning votes given for Delegate to Congress, and the returns for all district officers, judicial, legislative or otherwise, shall be made to the register of deeds of the senior county in each district, in the manner prescribed by law, except as otherwise provided. The returns for all officers elected at large shall be canvassed by the Governor of the Territory assisted by JOSEPH R. BROWN and THOMAS J. GALBRAITH, at the time designated by law for canvassing the vote for Delegate to Congress.

SEC. 22. If upon canvassing the votes for and against the adoption of this Constitution, it shall appear that there has been polled a greater number of votes against than for it, then no certificates of election shall be issued for any state or district officer provided for in this Constitution, and no State organization shall have validity within the limits of the Territory until otherwise provided for, and until a Constitution for a State Government shall have been adopted by the people.

Done in Convention this twenty-ninth day of August, one thousand eight hundred and fifty-seven, and of the Independence of the United States the eighty-second year. In witness whereof, we have hereunto subscribed our names, at the Capitol, in the City of St. Paul, this twenty-ninth day of August, in the year of our Lord one thousand eight hundred and fifty-seven.

ST. A. D. BALCOMBE,
President of the Constitutional Convention.

BENJ. C. BALDWIN,	JOSEPH PECKHAM,
D. M. HALL,	GEORGE WATSON,
ROBERT LYLE,	CHARLES F. LOWE,
S. A. KEMP,	P. A. CEDERSTAM,
WILLIAM F. RUSSELL,	CHARLES B. SHELDON.
N. B. ROBBINS, JR.,	DAVID MORGAN,
SIMEON HARDING,	JAMES A. MCCANN,
W. H. C. FOLSOM,	JOHN A. ANDERSON,
WENTWORTH HAYDEN,	A. H. BUTLER,
D. L. KING,	CHARLES HANSON,
T. D. SMITH,	CHARLES A. COE,
EDWIN PAGE DAVIS,	DAVID A. SECOMBE,
THOMAS WILSON,	JOHN CLEGHORN,
E. N. BATES,	ALANSON B. VAUGHN.
JOHN H. MURPHY,	HENRY ESCHLIE,
THOMAS BOLLES,	CYRUS ALDRICH,
D. D. DICKERSON,	F. AYER,
THOMAS FOSTER,	ALBERT W. COOMBS.
LEWIS M'KUNE,	THOS J. GALBRAITH,
W. J. DULEY,	H. W. HOLLEY,
R. L. BARTHOLOMEW,	B. E. MESSER,
N. P. COLBURN,	W. H. MILLS,
H. A. BILLINGS,	JOHN W. NORTH,
AARON G. HUDSON,	OSCAR F. PERKINS.
CHARLES GERRISH,	SAMUEL W. PUTNAM.
FRANK MANTOR,	L. K. STANNARD.
AMOS COGGSWELL,	C. W. THOMPSON,
CHAS. MCCLURE,	L. C. WALKER,
BOYD PHELPS,	PHILIP WINELL.

Attest: L. A. BABCOCK,
Secretary of the Constitutional Convention.

VOTE UPON THE CONSTITUTION.

Counties.	Canvassers' Return.		Precinct Returns.	
	For.	Ag'st.	For.	Ag'st.
Anoka,	477	10	477	10
Benton,	295	3	295	3
Blue Earth,	....	....	1,090	29
Brown,	488	....	488	....
Carver	845	5	845	5
Cass,	....	....	126	5
Chisago,	600	....	600	....
Cottonwood,	....	....	73	3
Crow Wing,	96	1	96	1
Dakota,	2,010	6	2,041	6
Davis,	....	....	35	....
Dodge,	....	....	812	16
Faribault,	219	2	219	2
Fillmore,	1,874	60	1,874	60
Freeborn,	635	3	635	3
Goodhue,	1,810	12	1,810	12
Hennepin,	3,662	70	3,662	70
Houston,	1,188	8	1,188	8
Isanti,	19	....	19	....
Lake,	....	....	86	6
Le Sueur,	819	87	819	87
Manomin,	113	....	113	....
Martin,	....	....	31	....
McLeod,	206	....	220	....
Meeker,	194	1	194	1
Mille Lac,	11	9	11	9
Morrison,	304	9	304	9
Mower,	639	14	656	14
Murray,	....	....	66	....
Nicollet,	....	....	958	10
Olmsted,	1,343	11	1,629	13
Pembina,	313	....	313	....
Pierce,	....	....	25	....
Pine,	50	....	50	....
Ramsey,	2,567	4	3,608	8
Renville,	....	....	119	....
Rice,	1,798	14	1,798	14
Rock,	....	....	37	....
Scott,	943	9	1,393	11
Sherburne,	94	....	94	....
Sibley,	663	10	663	10
Stearns,	354	14	354	14
Steele,	613	69	624	69
St. Louis,	....	....	93	44
Todd,	102	11	102	11
Wabashaw,	583	10	889	10
Waseca,	509	34	509	34
Washington,	1,662	25	1,875	26
Winona,	1,362	8	1,621	15
Wright,	605	52	605	52
Total,	30,055	571	36,240	700

Note.—The vote under the heading of the Canvassers' Return is the official count as declared by the Board of Canvassers designated in the Schedule. Their return was made up from the returns of the Regiater, who, in several instances, failed to return the vote for and against the Constitution. The vote under the heading of Precinct Returns embraces the whole vote of the State upon the Constitution, and is compiled from the Precinct Returns in the Secretary's office so far as they were received; and where these returns have failed to ahcw the full vote, the Register's Canvass has been taken.

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